

REFERENCE TITLE: fingerprint clearance cards

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1049

Introduced by
Senator Gray L

AN ACT

AMENDING SECTIONS 8-105, 8-509, 8-802, 13-1602, 15-183, 15-512, 36-594.01, 36-594.02, 41-619.52, 41-619.53, 41-619.54, 41-619.55, 41-1758.01, 41-1758.03 AND 41-1758.04, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1758.07; AMENDING SECTIONS 41-1964, 41-1967, 41-1967.01, 41-1968, 41-1969 AND 46-141, ARIZONA REVISED STATUTES; RELATING TO FINGERPRINT CLEARANCE CARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-105, Arizona Revised Statutes, is amended to
3 read:

4 8-105. Preadoption certification; investigation; central
5 adoption registry

6 A. Before any prospective adoptive parent may petition to adopt a
7 child the person shall be certified by the court as acceptable to adopt
8 children. A certificate shall be issued only after an investigation
9 conducted by an officer of the court, by an agency or by the division. A
10 written application for certification shall be made directly to the court, to
11 an agency or to the division, in the form and content required by the court,
12 agency or division.

13 B. The division is not required to accept every application for
14 certification. In determining which applications to accept the division may
15 give priority to applications filed by adult residents of this state who wish
16 to adopt a child who has any ~~of the~~ special needs ~~described~~ AS DEFINED in
17 section 8-141.

18 C. After receiving and accepting the written and completed application
19 of the prospective adoptive parent or parents, which shall include a
20 financial statement and a physician's or a registered nurse practitioner's
21 statement of each applicant's physical health, the division, the agency or an
22 officer of the court shall conduct or cause to be conducted an investigation
23 of the prospective adoptive parent or parents to determine if they are fit
24 and proper persons to adopt children.

25 D. The division shall not present for certification a prospective
26 adoptive parent unless that person ~~has~~ AND EACH OTHER ADULT MEMBER OF THE
27 HOUSEHOLD HAVE a valid fingerprint clearance card issued pursuant to ~~title~~
28 ~~41, chapter 12, article 3.1 or provides to the division documentation of the~~
29 ~~person's application for a fingerprint clearance card~~ SECTION 41-1758.07.
30 The prospective adoptive parent AND EACH OTHER ADULT MEMBER OF THE HOUSEHOLD
31 must certify on forms that are provided by the division and that are
32 notarized whether ~~the prospective adoptive parent~~ THAT PERSON is awaiting
33 trial on or has ever been convicted of any of the criminal offenses listed in
34 section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar
35 offenses in another state or jurisdiction.

36 E. An officer of the court may obtain a state and federal criminal
37 records check pursuant to section 41-1750 and Public Law 92-544. The
38 department of public safety may exchange this fingerprint data with the
39 federal bureau of investigation.

40 F. This investigation and report to the court shall consider all
41 relevant and material facts dealing with the prospective adoptive parents'
42 fitness to adopt children and shall include:

- 43 1. A complete social history.
- 44 2. The financial condition of the applicant.
- 45 3. The moral fitness of the applicant.

1 4. The religious background of the applicant.

2 5. The physical and mental health condition of the applicants.

3 6. Any court action for or adjudication of child abuse, abandonment of
4 children, dependency or termination of parent-child relationship in which the
5 applicant had control, care or custody of the child who was the subject of
6 the action.

7 7. Whether the person or persons wish to be placed on the central
8 registry established in subsection M of this section.

9 8. All other facts bearing on the issue of the fitness of the
10 prospective adoptive parents that the court, agency or division may deem
11 relevant.

12 G. The investigator shall not reveal to the prospective adoptive
13 parents the identity of a child or the child's parent or parents and shall
14 not reveal to the child or the child's parent or parents the identity of the
15 prospective adoptive parents if these facts are not already known.

16 H. Within ninety days after the original application prescribed by
17 subsection A of this section has been accepted, the division or the agency or
18 a person or agency designated by the court to conduct an investigation shall
19 present to the juvenile court the written report required by subsection F of
20 this section, which shall include a definite recommendation for certifying
21 the applicant as being acceptable or nonacceptable to adopt children ~~with~~ AND
22 the reasons for the recommendation.

23 I. Within sixty days after receiving the investigation report required
24 by subsections F and H of this section, the court shall certify the applicant
25 as being acceptable or nonacceptable to adopt children based on the
26 investigation report and recommendations of the report. A certification
27 remains in effect for eighteen months from the date of its issuance and may
28 be extended for additional one year periods if after review the court finds
29 that there have been no material changes in circumstances that would
30 adversely affect the acceptability of the applicant to adopt.

31 J. The court may require additional investigation if it finds that
32 additional information is necessary on which to make an appropriate decision
33 regarding certification.

34 K. Any applicant who has been certified as nonacceptable may petition
35 the court to review such certification. Notice shall be given to all
36 interested parties and the matter shall be heard by the court, which may
37 affirm or reverse the certification.

38 L. If the applicant is certified as nonacceptable, the applicant may
39 not reapply for certification to the court, to any agency or to the division
40 for one year.

41 M. The division shall maintain a central adoption registry that
42 includes the names of all prospective adoptive parents currently certified by
43 the court as acceptable to adopt children, except those who request that
44 their names not be included, the names of all children who are under the
45 jurisdiction of the division and who are currently available for adoption,

the names of any other children who are currently available for adoption and whose names are voluntarily entered in the registry by any agency, parent or other person that has the right to give consent to the child's adoption, and other information as the division may elect to include in aid of adoptive placements. Access to information in the registry shall be made available on request to any agency under assurances as the division may require that the information sought is in furtherance of adoptive placements and that confidentiality of the information is preserved.

N. This section does not apply if:

1. The prospective adoptive parent is the spouse of the birth or legal parent of the child to be adopted or is an uncle, aunt, adult sibling, grandparent or great-grandparent of the child of the whole or half-blood or by marriage or adoption.

2. The birth or legal parent is deceased but at the time of death the parent had legal and physical custody of the child to be adopted and the child had resided primarily with the spouse of the birth or legal parent during the twenty-four months before the death of the parent.

3. The grandparent, great-grandparent, aunt, adult sibling or uncle is deceased but at the time of death that person had legal and physical custody of the child to be adopted and the child had resided primarily with the spouse of the grandparent, great-grandparent, aunt, adult sibling or uncle during the twenty-four months before the death of the grandparent, great-grandparent, aunt, adult sibling or uncle.

0. If the applicant has adopted a child within three years preceding the current application and is applying to adopt another child or is a foster parent who is licensed by this state, the division or agency or a person designated by the court to conduct an investigation shall only provide an update report on any changes in circumstances that have occurred since the previous certification or licensing report. If the applicant has adopted a child more than three years before the current application and is applying to adopt another child, the division or agency or a person designated by the court to conduct an investigation may provide an updated report on any changes in circumstances that have occurred since the previous certification or licensing report. The court shall certify the applicant as acceptable to adopt unless there are changes in circumstances that adversely affect the applicant's parenting ability. In making this determination, the court shall consider information from the prior certification or licensing report.

Sec. 2. Section 8-509, Arizona Revised Statutes, is amended to read:

8-509. Licensing of foster homes; renewal of license; provisional license

A. The division shall license and certify foster homes. Licenses are valid for a period of one year.

B. The division shall not issue a license without satisfactory proof that the foster parent or parents have completed six actual hours of approved initial foster parent training as set forth in section 8-503 and that each

1 foster parent and each other adult member of the household has a valid
 2 fingerprint clearance card issued pursuant to ~~title 41, chapter 12, article~~
 3 ~~3.1 or provides to the division documentation of the person's application for~~
 4 ~~a fingerprint clearance card~~ SECTION 41-1758.07. The foster parent and each
 5 other adult member of the household must certify on forms that are provided
 6 by the division and that are notarized whether the foster parent or other
 7 adult member of the household is awaiting trial on or has ever been convicted
 8 of any of the criminal offenses listed in section ~~41-1758.03~~ 41-1758.07,
 9 subsections B and C in this state or similar offenses in another state or
 10 jurisdiction.

11 C. The division shall not renew a license without satisfactory proof
 12 that the foster parent or parents have completed six actual hours of approved
 13 ongoing foster parent training as set forth in section 8-503.

14 D. Notwithstanding the requirements of subsections B and C of this
 15 section, if the division determines a condition of hardship to the foster
 16 parent or parents, the division may issue a provisional license for a period
 17 not to exceed six months. A provisional license may not be renewed.

18 E. Child welfare agencies that submit foster homes for licensing shall
 19 conduct an investigation of the foster home pursuant to licensing rules of
 20 the division. The division shall conduct investigations of all other foster
 21 homes. If the foster home meets all requirements set by the division, the
 22 agency shall submit an application stating the foster home's qualifications
 23 to the division. The agency may also recommend the types of licensing and
 24 certification to be granted to the foster home.

25 F. The division shall accept an adoptive home certification study as a
 26 licensing home study if the study has been updated within the past three
 27 months to include the information necessary to determine whether the home
 28 meets foster care licensing standards.

29 G. This section shall not apply when the child is placed in a home by
 30 a means other than by court order and when the home receives no compensation
 31 from the state or any political subdivision of the state.

32 H. The division shall not prohibit a person operating a licensed
 33 foster home from applying for or receiving compensation as a foster home
 34 parent due to employment with the state of Arizona.

35 Sec. 3. Section 8-802, Arizona Revised Statutes, is amended to read:

36 8-802. Child protective services worker; fingerprint clearance
 37 cards; powers and duties; alteration of files;
 38 violation; classification

39 A. The department of economic security shall employ child protective
 40 services workers. All persons who are employed as child protective services
 41 workers shall have a valid fingerprint clearance card that is issued pursuant
 42 to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07 or shall apply for a
 43 fingerprint clearance card within seven working days of employment. A child
 44 protective services worker shall certify on forms that are provided by the
 45 department of economic security and that are notarized whether the worker is

1 awaiting trial on or has ever been convicted of any of the criminal offenses
2 listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or
3 similar offenses in another state or jurisdiction.

4 B. The department may cooperate with county agencies and community
5 social services agencies to achieve the purposes of this chapter.

6 C. A child protective services worker shall:

7 1. Promote the safety and protection of children.

8 2. Accept, screen and assess reports of abuse or neglect pursuant to
9 section 8-817.

10 3. Receive reports of dependent, abused or abandoned children and be
11 prepared to provide temporary foster care for such children on a twenty-four
12 hour basis.

13 4. Receive from any source oral or written information regarding a
14 child who may be in need of protective services. A worker shall not
15 interview a child without the prior written consent of the parent, guardian
16 or custodian of the child unless either:

17 (a) The child initiates contact with the worker.

18 (b) The child who is interviewed is the subject of or is the sibling
19 of or living with the child who is the subject of an abuse or abandonment
20 investigation pursuant to paragraph 5, subdivision (b) of this subsection.

21 (c) The interview is conducted pursuant to the terms of the protocols
22 established pursuant to section 8-817.

23 5. After the receipt of any report or information pursuant to
24 paragraph 2, 3 or 4 of this subsection, immediately do both of the following:

25 (a) Notify the municipal or county law enforcement agency.

26 (b) Make a prompt and thorough investigation of the nature, extent and
27 cause of any condition that would tend to support or refute the allegation
28 that the child should be adjudicated dependent and the name, age and
29 condition of other children in the home. A criminal conduct allegation shall
30 be investigated according to the protocols established pursuant to section
31 8-817 with the appropriate municipal or county law enforcement agency as
32 provided in section 8-817.

33 6. Take a child into temporary custody as provided in section 8-821.
34 Law enforcement officers shall cooperate with the department to remove a
35 child from the custody of the child's parents, guardian or custodian when
36 necessary.

37 7. After investigation, evaluate conditions created by the parents,
38 guardian or custodian that would support or refute the allegation that the
39 child should be adjudicated dependent. The child protective services worker
40 shall then determine whether any child is in need of protective services.

41 8. Offer to the family of any child who is found to be a child in need
42 of protective services those services that are designed to correct unresolved
43 problems that would indicate a reason to adjudicate the child dependent.

1 9. Submit a written report of the worker's investigation to:

2 (a) The department's case management information system within
3 twenty-one days after receipt of the initial information except as provided
4 in section 8-811. If the investigation involves allegations regarding a
5 child who at the time of the alleged incident was in the custody of a child
6 welfare agency licensed by the department of economic security under this
7 title, a copy of the report and any additional investigative or other related
8 reports shall be provided to the board of directors of the agency or to the
9 administrative head of the agency unless the incident is alleged to have been
10 committed by the person. The department shall excise all information with
11 regard to the identity of the source of the reports.

12 (b) The appropriate court forty-eight hours before a dependency
13 hearing pursuant to a petition of dependency or within twenty-one days after
14 a petition of dependency is filed, whichever is earlier. On receipt of the
15 report the court shall make the report available to all parties and counsel.

16 10. Accept a child into voluntary placement pursuant to section 8-806.

17 11. Make a good faith effort to promptly obtain and abide by court
18 orders that restrict or deny custody, visitation or contact by a parent or
19 other person in the home with the child. As part of ~~their~~ THE good faith
20 effort, the child protective services worker shall ask the parent, guardian
21 or custodian under investigation if a current court order exists.

22 D. ~~No~~ A child shall NOT remain in temporary custody for a period
23 exceeding seventy-two hours, excluding Saturdays, Sundays and holidays,
24 unless a dependency petition is filed. If ~~no~~ A petition is NOT filed and the
25 child is released to the child's parent, guardian or custodian, the worker
26 shall file a report of removal with the central registry within seventy-two
27 hours of the child's release. The report shall include:

28 1. The dates of previous referrals, investigations or temporary
29 custody.

30 2. The dates on which other children in the family have been taken
31 into temporary custody.

32 E. The department shall provide child protective services workers who
33 investigate allegations of abuse and neglect with training in forensic
34 interviewing and processes, the protocols established pursuant to section
35 8-817 and relevant law enforcement procedures. All child protective services
36 workers shall be trained in their duty to protect the legal rights of
37 children and families from the time of the initial contact through treatment.
38 The training shall include knowledge of a child's rights as a victim of
39 crime. The training for child protective services workers shall also include
40 instruction on the legal rights of parents and the requirements for legal
41 search and seizure by law enforcement officers.

42 F. In conducting an investigation pursuant to this section, if the
43 worker is made aware that an allegation of abuse or neglect may also have
44 been made in another state, the worker shall contact the appropriate agency

1 in that state to attempt to determine the outcome of any investigation of
2 that allegation.

3 G. Any person who alters a client file for the purpose of fraud or
4 misrepresentation is guilty of a class 2 misdemeanor.

5 Sec. 4. Section 13-1602, Arizona Revised Statutes, is amended to read:
6 13-1602. Criminal damage; classification

7 A. A person commits criminal damage by recklessly:

- 8 1. Defacing or damaging property of another person; or
- 9 2. Tampering with property of another person so as substantially to
10 impair its function or value; or
- 11 3. Tampering with the property of a utility.
- 12 4. Parking any vehicle in such a manner as to deprive livestock of
13 access to the only reasonably available water.
- 14 5. Drawing or inscribing a message, slogan, sign or symbol that is
15 made on any public or private building, structure or surface, except the
16 ground, and that is made without permission of the owner.

17 B. Criminal damage is punished as follows:

- 18 1. Criminal damage is a class 4 felony if the person recklessly
19 damages property of another in an amount of ten thousand dollars or more, or
20 if the person recklessly causes impairment of the functioning of any utility.
- 21 2. Criminal damage is a class 5 felony if the person recklessly
22 damages property of another in an amount of two thousand dollars or more but
23 less than ten thousand dollars.
- 24 3. Criminal damage is a class ~~6-felony~~ 1 MISDEMEANOR if the person
25 recklessly damages property of another in an amount of more than two hundred
26 fifty dollars but less than two thousand dollars.
- 27 4. In all other cases criminal damage is a class 2 misdemeanor.

28 Sec. 5. Section 15-183, Arizona Revised Statutes, is amended to read:
29 15-183. Charter schools; application; requirements; immunity;
30 exemptions; renewal of application; reprisal

31 A. An applicant seeking to establish a charter school shall submit a
32 written application to a proposed sponsor as prescribed in subsection C of
33 this section. The application shall include a detailed business plan for the
34 charter school and may include a mission statement for the charter school, a
35 description of the charter school's organizational structure and the
36 governing body, a financial plan for the first three years of operation of
37 the charter school, a description of the charter school's hiring policy, the
38 name of the charter school's applicant or applicants and requested sponsor, a
39 description of the charter school's facility and the location of the school,
40 a description of the grades being served and an outline of criteria designed
41 to measure the effectiveness of the school.

42 B. The sponsor of a charter school may contract with a public body,
43 private person or private organization for the purpose of establishing a
44 charter school pursuant to this article.

1 C. The sponsor of a charter school may be either a school district
2 governing board, the state board of education or the state board for charter
3 schools, subject to the following requirements:

4 1. For charter schools that submit an application for sponsorship to a
5 school district governing board:

6 (a) An applicant for a charter school may submit its application to a
7 school district governing board, which shall either accept or reject
8 sponsorship of the charter school within ninety days. An applicant may
9 submit a revised application for reconsideration by the governing board. If
10 the governing board rejects the application, the governing board shall notify
11 the applicant in writing of the reasons for the rejection. The applicant may
12 request, and the governing board may provide, technical assistance to improve
13 the application.

14 (b) In the first year that a school district is determined to be out
15 of compliance with the uniform system of financial records, within fifteen
16 days of the determination of noncompliance, the school district shall notify
17 by certified mail each charter school sponsored by the school district that
18 the school district is out of compliance with the uniform system of financial
19 records. The notification shall include a statement that if the school
20 district is determined to be out of compliance for a second consecutive year,
21 the charter school will be required to transfer sponsorship to another entity
22 pursuant to subdivision (c) of this paragraph.

23 (c) In the second consecutive year that a school district is
24 determined to be out of compliance with the uniform system of financial
25 records, within fifteen days of the determination of noncompliance, the
26 school district shall notify by certified mail each charter school sponsored
27 by the school district that the school district is out of compliance with the
28 uniform system of financial records. A charter school that receives a
29 notification of school district noncompliance pursuant to this subdivision
30 shall file a written sponsorship transfer application within forty-five days
31 with the state board of education, the state board for charter schools or the
32 school district governing board if the charter school is located within the
33 geographic boundaries of that school district. A charter school that
34 receives a notification of school district noncompliance may request an
35 extension of time to file a sponsorship transfer application and the state
36 board of education, the state board for charter schools or a school district
37 governing board may grant an extension of not more than an additional thirty
38 days if good cause exists for the extension. The state board of education
39 and the state board for charter schools shall approve a sponsorship transfer
40 application pursuant to this paragraph.

41 (d) ~~Beginning July 1, 2000,~~ A school district governing board shall
42 not grant a charter to a charter school that is located outside the
43 geographic boundaries of that school district.

1 (e) A school district that has been determined to be out of compliance
2 with the uniform system of financial records during either of the previous
3 two fiscal years shall not sponsor a new or transferring charter school.

4 2. The applicant may submit the application to the state board of
5 education or the state board for charter schools. The state board of
6 education or the state board for charter schools may approve the application
7 if the application meets the requirements of this article and may approve the
8 charter if the proposed sponsor determines, within its sole discretion, that
9 the applicant is sufficiently qualified to operate a charter school. The
10 state board of education or the state board for charter schools may approve
11 any charter schools transferring charters. The state board of education and
12 the state board for charter schools shall approve any charter schools
13 transferring charters from a school district that is determined to be out of
14 compliance with the uniform system of financial records pursuant to this
15 section, but may require the charter school to sign a new charter that is
16 equivalent to the charter awarded by the former sponsor. If the state board
17 of education or the state board for charter schools rejects the preliminary
18 application, the state board of education or the state board for charter
19 schools shall notify the applicant in writing of the reasons for the
20 rejection and of suggestions for improving the application. An applicant may
21 submit a revised application for reconsideration by the state board of
22 education or the state board for charter schools. The applicant may request,
23 and the state board of education or the state board for charter schools may
24 provide, technical assistance to improve the application.

25 3. Each applicant seeking to establish a charter school shall submit a
26 full set of fingerprints to the approving agency for the purpose of obtaining
27 a state and federal criminal records check pursuant to section 41-1750 and
28 Public Law 92-544. If an applicant will have direct contact with students,
29 the applicant shall possess a valid fingerprint clearance card that is issued
30 pursuant to title 41, chapter 12, article 3.1. The department of public
31 safety may exchange this fingerprint data with the federal bureau of
32 investigation. The criminal records check shall be completed before the
33 issuance of a charter.

34 4. All persons engaged in instructional work directly as a classroom,
35 laboratory or other teacher or indirectly as a supervisory teacher, speech
36 therapist or principal shall have a valid fingerprint clearance card that is
37 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a
38 volunteer or guest speaker who is accompanied in the classroom by a person
39 with a valid fingerprint clearance card. A charter school shall not employ a
40 teacher whose certificate has been revoked for a violation of section 15-507
41 or 15-550 or for any offense that placed a pupil in danger. All other
42 personnel shall be fingerprint checked pursuant to section 15-512. A CHARTER
43 SCHOOL SHALL REFUSE TO HIRE OR MAY REVIEW OR TERMINATE PERSONNEL FINGERPRINT
44 CHECKED PURSUANT TO SECTION 15-512 WHO HAVE BEEN CONVICTED OF OR ADMITTED
45 COMMITTING ANY OF THE CRIMINAL OFFENSES PRESCRIBED IN SECTION 15-512,

1 SUBSECTION D OR OF A SIMILAR OFFENSE IN ANOTHER JURISDICTION. Before
2 employment, the charter school shall make documented, good faith efforts to
3 contact previous employers of a person to obtain information and
4 recommendations that may be relevant to a person's fitness for employment as
5 prescribed in section 15-512, subsection F. The charter school shall notify
6 the department of public safety if the charter school or sponsor receives
7 credible evidence that a person who possesses a valid fingerprint clearance
8 card is arrested for or is charged with an offense listed in section
9 41-1758.03, subsection B. Charter schools may hire personnel that have not
10 yet received a fingerprint clearance card if proof is provided of the
11 submission of an application to the department of public safety for a
12 fingerprint clearance card and if the charter school that is seeking to hire
13 the applicant does all of the following:

14 (a) Documents in the applicant's file the necessity for hiring and
15 placement of the applicant before receiving a fingerprint clearance card.

16 (b) Ensures that the department of public safety completes a statewide
17 criminal records check on the applicant. A statewide criminal records check
18 shall be completed by the department of public safety every one hundred
19 twenty days until the date that the fingerprint check is completed.

20 (c) Obtains references from the applicant's current employer and the
21 two most recent previous employers except for applicants who have been
22 employed for at least five years by the applicant's most recent employer.

23 (d) Provides general supervision of the applicant until the date that
24 the fingerprint card is obtained.

25 (e) Completes a search of criminal records in all local jurisdictions
26 outside of this state in which the applicant has lived in the previous five
27 years.

28 (f) Verifies the fingerprint status of the applicant with the
29 department of public safety.

30 5. If a charter school operator is not already subject to a public
31 meeting or hearing by the municipality in which the charter school is
32 located, the operator of a charter school shall conduct a public meeting at
33 least thirty days before the charter school operator opens a site or sites
34 for the charter school. The charter school operator shall post notices of
35 the public meeting in at least three different locations that are within
36 three hundred feet of the proposed charter school site.

37 6. A person who is employed by a charter school or who is an applicant
38 for employment with a charter school, who is arrested for or charged with a
39 nonappealable offense listed in section 41-1758.03, subsection B and who does
40 not immediately report the arrest or charge to the person's supervisor or
41 potential employer is guilty of unprofessional conduct and the person shall
42 be immediately dismissed from employment with the charter school or
43 immediately excluded from potential employment with the charter school.

44 7. A person who is employed by a charter school and who is convicted
45 of any nonappealable offense listed in section 41-1758.03, subsection B or is

1 convicted of any nonappealable offense that amounts to unprofessional conduct
2 under section 15-550 shall immediately do all of the following:

3 (a) Surrender any certificates issued by the department of education.

4 (b) Notify the person's employer or potential employer of the
5 conviction.

6 (c) Notify the department of public safety of the conviction.

7 (d) Surrender the person's fingerprint clearance card.

8 D. A board that is authorized to sponsor charter schools pursuant to
9 this article has no legal authority over or responsibility for a charter
10 school sponsored by a different board. This subsection does not apply to the
11 state board of education's duty to exercise general supervision over the
12 public school system pursuant to section 15-203, subsection A, paragraph 1.

13 E. The charter of a charter school shall ensure the following:

14 1. Compliance with federal, state and local rules, regulations and
15 statutes relating to health, safety, civil rights and insurance. The
16 department of education shall publish a list of relevant rules, regulations
17 and statutes to notify charter schools of their responsibilities under this
18 paragraph.

19 2. That it is nonsectarian in its programs, admission policies and
20 employment practices and all other operations.

21 3. That it provides a comprehensive program of instruction for at
22 least a kindergarten program or any grade between grades one and twelve,
23 except that a school may offer this curriculum with an emphasis on a specific
24 learning philosophy or style or certain subject areas such as mathematics,
25 science, fine arts, performance arts or foreign language.

26 4. That it designs a method to measure pupil progress toward the pupil
27 outcomes adopted by the state board of education pursuant to section
28 15-741.01, including participation in the Arizona instrument to measure
29 standards test and the nationally standardized norm-referenced achievement
30 test as designated by the state board and the completion and distribution of
31 an annual report card as prescribed in chapter 7, article 3 of this title.

32 5. That, except as provided in this article and in its charter, it is
33 exempt from all statutes and rules relating to schools, governing boards and
34 school districts.

35 6. That, except as provided in this article, it is subject to the same
36 financial and electronic data submission requirements as a school district,
37 including the uniform system of financial records as prescribed in chapter 2,
38 article 4 of this title, procurement rules as prescribed in section 15-213
39 and audit requirements. The auditor general shall conduct a comprehensive
40 review and revision of the uniform system of financial records to ensure that
41 the provisions of the uniform system of financial records that relate to
42 charter schools are in accordance with commonly accepted accounting
43 principles used by private business. A school's charter may include
44 exceptions to the requirements of this paragraph that are necessary as
45 determined by the district governing board, the state board of education or

1 the state board for charter schools. The department of education or the
2 office of the auditor general may conduct financial, program or compliance
3 audits.

4 7. Compliance with all federal and state laws relating to the
5 education of children with disabilities in the same manner as a school
6 district.

7 8. That it provides for a governing body for the charter school that
8 is responsible for the policy decisions of the charter school.

9 9. That it provides a minimum of one hundred seventy-five
10 instructional days before June 30 of each fiscal year unless it is operating
11 on an alternative calendar approved by its sponsor. The superintendent of
12 public instruction shall adjust the apportionment schedule accordingly to
13 accommodate a charter school utilizing an alternative calendar.

14 F. The charter of a charter school shall include a description of the
15 charter school's personnel policies, personnel qualifications and method of
16 school governance and the specific role and duties of the sponsor of the
17 charter school. A charter school shall keep on file the resumes of all
18 current and former employees who provide instruction to pupils at the charter
19 school. Resumes shall include an individual's educational and teaching
20 background and experience in a particular academic content subject area. A
21 charter school shall inform parents and guardians of the availability of the
22 resume information and shall make the resume information available for
23 inspection on request of parents and guardians of pupils enrolled at the
24 charter school. Nothing in this subsection shall be construed to require any
25 charter school to release personally identifiable information in relation to
26 any teacher or employee including the teacher's or employee's address,
27 salary, social security number or telephone number.

28 G. The charter of a charter school may be amended at the request of
29 the governing body of the charter school and on the approval of the sponsor.

30 H. Charter schools may contract, sue and be sued.

31 I. An approved plan to establish a charter school is effective for
32 fifteen years from the first day of operation. At least eighteen months
33 before the expiration of the approved plan, the sponsor shall notify the
34 charter school that the charter school may apply for renewal. A charter
35 school that elects to apply for renewal shall file an application for renewal
36 at least fifteen months before the expiration of the approved plan. In
37 addition to any other requirements, the application for renewal shall include
38 a detailed business plan for the charter school. The sponsor may deny the
39 request for renewal if, in its judgment, the charter school has failed to
40 complete the obligations of the contract or has failed to comply with this
41 article. A sponsor shall give written notice of its intent not to renew the
42 charter school's request for renewal to the charter school at least twelve
43 months before the expiration of the approved plan to allow the charter school
44 an opportunity to apply to another sponsor to transfer the operation of the
45 charter school. If the operation of the charter school is transferred to

1 another sponsor, the fifteen year period of the current charter shall be
2 maintained. A sponsor shall review a charter at five year intervals and may
3 revoke a charter at any time if the charter school breaches one or more
4 provisions of its charter. At least ninety days before the effective date of
5 the proposed revocation the sponsor shall give written notice to the operator
6 of the charter school of its intent to revoke the charter. Notice of the
7 sponsor's intent to revoke the charter shall be delivered personally to the
8 operator of the charter school or sent by certified mail, return receipt
9 requested, to the address of the charter school. The notice shall
10 incorporate a statement of reasons for the proposed revocation of the
11 charter. The sponsor shall allow the charter school at least ninety days to
12 correct the problems associated with the reasons for the proposed revocation
13 of the charter. The final determination of whether to revoke the charter
14 shall be made at a public hearing called for such purpose.

15 J. After renewal of the charter at the end of the fifteen year period
16 described in subsection I of this section, the charter may be renewed for
17 successive periods of fifteen years if the charter school and its sponsor
18 deem that the school is in compliance with its own charter and this article.

19 K. A charter school that is sponsored by the state board of education
20 or the state board for charter schools may not be located on the property of
21 a school district unless the district governing board grants this authority.

22 L. A governing board or a school district employee who has control
23 over personnel actions shall not take unlawful reprisal against another
24 employee of the school district because the employee is directly or
25 indirectly involved in an application to establish a charter school. A
26 governing board or a school district employee shall not take unlawful
27 reprisal against an educational program of the school or the school district
28 because an application to establish a charter school proposes the conversion
29 of all or a portion of the educational program to a charter school. For the
30 purposes of this subsection, "unlawful reprisal" means an action that is
31 taken by a governing board or a school district employee as a direct result
32 of a lawful application to establish a charter school and that is adverse to
33 another employee or an education program and:

34 1. With respect to a school district employee, results in one or more
35 of the following:

- 36 (a) Disciplinary or corrective action.
- 37 (b) Detail, transfer or reassignment.
- 38 (c) Suspension, demotion or dismissal.
- 39 (d) An unfavorable performance evaluation.
- 40 (e) A reduction in pay, benefits or awards.
- 41 (f) Elimination of the employee's position without a reduction in
42 force by reason of lack of monies or work.
- 43 (g) Other significant changes in duties or responsibilities that are
44 inconsistent with the employee's salary or employment classification.

1 2. With respect to an educational program, results in one or more of
2 the following:

3 (a) Suspension or termination of the program.

4 (b) Transfer or reassignment of the program to a less favorable
5 department.

6 (c) Relocation of the program to a less favorable site within the
7 school or school district.

8 (d) Significant reduction or termination of funding for the program.

9 M. Charter schools shall secure insurance for liability and property
10 loss. The governing body of a charter school that is sponsored by the state
11 board of education or the state board for charter schools may enter into an
12 intergovernmental agreement or otherwise contract to participate in an
13 insurance program offered by a risk retention pool established pursuant to
14 section 11-952.01 or 41-621.01 or the charter school may secure its own
15 insurance coverage. The pool may charge the requesting charter school
16 reasonable fees for any services it performs in connection with the insurance
17 program.

18 N. Charter schools do not have the authority to acquire property by
19 eminent domain.

20 O. A sponsor, including members, officers and employees of the
21 sponsor, is immune from personal liability for all acts done and actions
22 taken in good faith within the scope of its authority.

23 P. Charter school sponsors and this state are not liable for the debts
24 or financial obligations of a charter school or persons who operate charter
25 schools.

26 Q. The sponsor of a charter school shall establish procedures to
27 conduct administrative hearings on determination by the sponsor that grounds
28 exist to revoke a charter. Procedures for administrative hearings shall be
29 similar to procedures prescribed for adjudicative proceedings in title 41,
30 chapter 6, article 10. Except as provided in section 41-1092.08, subsection
31 H, final decisions of the state board of education and the state board for
32 charter schools from hearings conducted pursuant to this subsection are
33 subject to judicial review pursuant to title 12, chapter 7, article 6.

34 R. The sponsoring entity of a charter school shall have oversight and
35 administrative responsibility for the charter schools that it sponsors.

36 S. Charter schools may pledge, assign or encumber their assets to be
37 used as collateral for loans or extensions of credit.

38 T. All property accumulated by a charter school shall remain the
39 property of the charter school.

40 U. Charter schools may not locate a school on property that is less
41 than one-fourth mile from agricultural land regulated pursuant to section
42 3-365, except that the owner of the agricultural land may agree to comply
43 with the buffer zone requirements of section 3-365. If the owner agrees in
44 writing to comply with the buffer zone requirements and records the agreement
45 in the office of the county recorder as a restrictive covenant running with

1 the title to the land, the charter school may locate a school within the
2 affected buffer zone. The agreement may include any stipulations regarding
3 the charter school, including conditions for future expansion of the school
4 and changes in the operational status of the school that will result in a
5 breach of the agreement.

6 V. A transfer of a charter to another sponsor, a transfer of a charter
7 school site to another sponsor or a transfer of a charter school site to a
8 different charter shall be completed before the beginning of the fiscal year
9 that the transfer is scheduled to become effective. An entity that sponsors
10 charter schools may accept a transferring school after the beginning of the
11 fiscal year if the transfer is approved by the superintendent of public
12 instruction. The superintendent of public instruction shall have the
13 discretion to consider each transfer during the fiscal year on a case by case
14 basis. If a charter school is sponsored by a school district that is
15 determined to be out of compliance with this title, the uniform system of
16 financial records or any other state or federal law, the charter school may
17 transfer to another sponsoring entity at any time during the fiscal year.

18 W. The sponsoring entity may not charge any fees to a charter school
19 that it sponsors unless the sponsor has provided services to the charter
20 school and the fees represent the full value of those services provided by
21 the sponsor. On request, the value of the services provided by the sponsor
22 to the charter school shall be demonstrated to the department of education.

23 Sec. 6. Section 15-512, Arizona Revised Statutes, is amended to read:

24 15-512. Noncertificated personnel; fingerprinting personnel;
25 background investigations; affidavit; civil immunity;
26 violation; classification; definition

27 A. Noncertificated personnel and personnel who are not paid employees
28 of the school district and who are not either the parent or the guardian of a
29 pupil who attends school in the school district but who are required or
30 allowed to provide services directly to pupils without the supervision of a
31 certificated employee and who are initially hired by a school district after
32 January 1, 1990 shall be fingerprinted as a condition of employment except
33 for personnel who are required as a condition of licensing to be
34 fingerprinted if the license is required for employment or for personnel who
35 were previously employed by a school district and who reestablished
36 employment with that district within one year after the date that the
37 employee terminated employment with the district. A school district may
38 release the results of a background check to another school district for
39 employment purposes. The employee's fingerprints and the form prescribed in
40 subsection D of this section shall be submitted to the school district within
41 twenty days after the date an employee begins work. A school district may
42 terminate an employee if the information on the form provided under
43 subsection D of this section is inconsistent with the information received
44 from the fingerprint check. The school district shall develop procedures for
45 fingerprinting employees. For the purposes of this subsection, "supervision"

1 means under the direction of and, except for brief periods of time during a
 2 school day or a school activity, within sight of a certificated employee when
 3 providing direct services to pupils.

4 B. Fingerprints submitted pursuant to this section shall be used to
 5 conduct a state and ~~national~~ FEDERAL criminal records check pursuant to
 6 section 41-1750 and Public Law 92-544. The department of public safety may
 7 exchange this fingerprint data with the federal bureau of investigation.

8 C. The school district shall assume the costs of fingerprint checks
 9 and may charge these costs to its fingerprinted employee, except that the
 10 school district may not charge the costs of the fingerprint check to
 11 personnel of the school district who are not paid employees. The fees charged
 12 for fingerprinting shall be deposited with the county treasurer who shall
 13 credit the deposit to the fingerprint fund of the school district. The costs
 14 charged to a fingerprinted employee are limited to and the proceeds in the
 15 fund may only be applied to the actual costs, including personnel costs,
 16 incurred as a result of the fingerprint checks. The fingerprint fund is a
 17 continuing fund which is not subject to reversion.

18 D. Personnel required to be fingerprinted as prescribed in subsection
 19 A of this section shall certify on forms that are provided by the school and
 20 notarized whether they are awaiting trial on or have ever been convicted of
 21 or admitted in open court or pursuant to a plea agreement committing any of
 22 the following criminal offenses in this state or similar offenses in another
 23 jurisdiction:

- 24 ~~1. Sexual abuse of a minor.~~
- 25 ~~2. Incest.~~
- 26 ~~3. First or second degree murder.~~
- 27 ~~4. Kidnapping.~~
- 28 ~~5. Arson.~~
- 29 ~~6. Sexual assault.~~
- 30 ~~7. Sexual exploitation of a minor.~~
- 31 ~~8. Felony offenses involving contributing to the delinquency of a~~
 32 ~~minor.~~
- 33 ~~9. Commercial sexual exploitation of a minor.~~
- 34 ~~10. Felony offenses involving sale, distribution or transportation of,~~
 35 ~~offer to sell, transport, or distribute or conspiracy to sell, transport or~~
 36 ~~distribute marijuana or dangerous or narcotic drugs.~~
- 37 ~~11. Felony offenses involving the possession or use of marijuana,~~
 38 ~~dangerous drugs or narcotic drugs.~~
- 39 ~~12. Misdemeanor offenses involving the possession or use of marijuana~~
 40 ~~or dangerous drugs.~~
- 41 ~~13. Burglary in the first degree.~~
- 42 ~~14. Burglary in the second or third degree.~~
- 43 ~~15. Aggravated or armed robbery.~~
- 44 ~~16. Robbery.~~

45 1. SEXUAL ABUSE OF A VULNERABLE ADULT.

- 1 2. INCEST.
- 2 3. FIRST OR SECOND DEGREE MURDER.
- 3 4. SEXUAL ASSAULT.
- 4 5. SEXUAL EXPLOITATION OF A MINOR.
- 5 6. SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 6 7. COMMERCIAL SEXUAL EXPLOITATION OF A MINOR.
- 7 8. COMMERCIAL SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 8 9. CHILD PROSTITUTION AS PRESCRIBED IN SECTION 13-3212.
- 9 10. CHILD ABUSE.
- 10 11. ABUSE OF A VULNERABLE ADULT.
- 11 12. SEXUAL CONDUCT WITH A MINOR.
- 12 13. MOLESTATION OF A CHILD.
- 13 14. MOLESTATION OF A VULNERABLE ADULT.
- 14 ~~17.~~ 15. A dangerous crime against children as defined in section
- 15 13-705.
- 16 ~~18. Child abuse.~~
- 17 ~~19. Sexual conduct with a minor.~~
- 18 ~~20. Molestation of a child.~~
- 19 ~~21. Manslaughter.~~
- 20 ~~22. Aggravated assault.~~
- 21 ~~23. Assault.~~
- 22 ~~24. Exploitation of minors involving drug offenses.~~
- 23 16. EXPLOITATION OF MINORS INVOLVING DRUG OFFENSES.
- 24 17. TAKING A CHILD FOR THE PURPOSES OF PROSTITUTION AS PRESCRIBED IN
- 25 SECTION 13-3206.
- 26 18. NEGLECT OR ABUSE OF A VULNERABLE ADULT.
- 27 19. SEX TRAFFICKING.
- 28 20. SEXUAL ABUSE.
- 29 21. PRODUCTION, PUBLICATION, SALE, POSSESSION AND PRESENTATION OF
- 30 OBSCENE ITEMS AS PRESCRIBED IN SECTION 13-3502.
- 31 22. FURNISHING HARMFUL ITEMS TO MINORS AS PRESCRIBED IN SECTION
- 32 13-3506.
- 33 23. FURNISHING HARMFUL ITEMS TO MINORS BY INTERNET ACTIVITY AS
- 34 PRESCRIBED IN SECTION 13-3506.01.
- 35 24. OBSCENE OR INDECENT TELEPHONE COMMUNICATIONS TO MINORS FOR
- 36 COMMERCIAL PURPOSES AS PRESCRIBED IN SECTION 13-3512.
- 37 25. LURING A MINOR FOR SEXUAL EXPLOITATION.
- 38 26. ENTICEMENT OF PERSONS FOR PURPOSES OF PROSTITUTION.
- 39 27. PROCUREMENT BY FALSE PRETENSES OF PERSON FOR PURPOSES OF
- 40 PROSTITUTION.
- 41 28. PROCURING OR PLACING PERSONS IN A HOUSE OF PROSTITUTION.
- 42 29. RECEIVING EARNINGS OF A PROSTITUTE.
- 43 30. CAUSING ONE'S SPOUSE TO BECOME A PROSTITUTE.
- 44 31. DETENTION OF PERSONS IN A HOUSE OF PROSTITUTION FOR DEBT.

32. KEEPING OR RESIDING IN A HOUSE OF PROSTITUTION OR EMPLOYMENT IN PROSTITUTION.

33. PANDERING.

34. TRANSPORTING PERSONS FOR THE PURPOSE OF PROSTITUTION, POLYGAMY AND CONCUBINAGE.

35. PORTRAYING ADULT AS A MINOR AS PRESCRIBED IN SECTION 13-3555.

36. ADMITTING MINORS TO PUBLIC DISPLAYS OF SEXUAL CONDUCT AS PRESCRIBED IN SECTION 13-3558.

37. UNLAWFUL SALE OR PURCHASE OF CHILDREN.

38. CHILD BIGAMY.

E. A school district ~~may~~ SHALL refuse to hire or may review or terminate personnel who have been convicted of or admitted committing any of the criminal offenses prescribed in subsection D of this section or of a similar offense in another jurisdiction. A school district which is considering terminating an employee pursuant to this subsection shall hold a hearing to determine whether a person already employed shall be terminated. In conducting a review, the governing board shall utilize the guidelines, including the list of offenses that are not subject to review, as prescribed by the state board of education pursuant to section 15-534, subsection C. In considering whether to hire or terminate the employment of a person the governing board shall take into account the following factors:

1. The nature of the crime and the potential for crimes against children.

2. Offenses committed as a minor for which proceedings were held under the jurisdiction of a juvenile or an adult court.

3. Offenses that have been expunged by a court of competent jurisdiction, if the person has been pardoned or if the person's sentence has been commuted.

4. The employment record of the person since the commission of the crime if the crime was committed more than ten years before the governing board's consideration of whether to hire or terminate the person.

5. The reliability of the evidence of an admission of a crime unless made under oath in a court of competent jurisdiction.

F. Before employment with the school district, the district shall make documented, good faith efforts to contact previous employers of a person to obtain information and recommendations which may be relevant to a person's fitness for employment. A governing board shall adopt procedures for conducting background investigations required by this subsection, including one or more standard forms for use by school district officials to document their efforts to obtain information from previous employers. A school district may provide information received as a result of a background investigation required by this section to any other school district, to any other public school and to any public entity that agrees pursuant to a contract or intergovernmental agreement to perform background investigations for school districts or other public schools. School districts and other

1 public schools may enter into intergovernmental agreements pursuant to
2 section 11-952 and cooperative purchasing agreements pursuant to rules
3 adopted in accordance with section 15-213 for the purposes of performing or
4 contracting for the performance of background investigations and for sharing
5 the results of background investigations required by this subsection.
6 Information obtained about an employee or applicant for employment by any
7 school district or other public school in the performance of a background
8 investigation may be retained by that school district or the other public
9 school or by any public entity that agrees pursuant to contract to perform
10 background investigations for school districts or other public schools and
11 may be provided to any school district or other public school that is
12 performing a background investigation required by this subsection.

13 G. A school district may fingerprint any other employee of the
14 district, whether paid or not, or any other applicant for employment with the
15 school district not otherwise required by this section to be fingerprinted on
16 the condition that the school district may not charge the costs of the
17 fingerprint check to the fingerprinted applicant or nonpaid employee.

18 H. A school district shall fingerprint or require the submission of a
19 full set of fingerprints of any contractor, subcontractor or vendor or any
20 employee of a contractor, subcontractor or vendor who is contracted to
21 provide services on a regular basis on school property. The school district
22 may charge the costs of the fingerprint check to the contractor,
23 subcontractor or vendor or the employee of the contractor, subcontractor or
24 vendor. A school district governing board shall adopt policies that may
25 exempt persons who are not likely to have direct, unsupervised contact with
26 pupils from the requirements of this subsection. A school district, its
27 governing board members, its school council members and its employees are
28 exempt from civil liability for the consequences of adoption and
29 implementation of policies and procedures pursuant to this subsection unless
30 the school district, its governing board members, its school council members
31 or its employees are guilty of gross negligence or intentional misconduct.
32 For the purposes of this subsection, "provide services on a regular basis"
33 means services provided by a contractor, subcontractor or vendor at least
34 five times each month on school property.

35 I. Subsection A of this section does not apply to a person who
36 provides instruction or other education services to a pupil, with the written
37 consent of the parent or guardian of the pupil, under a work release program,
38 advance placement course or other education program that occurs off school
39 property.

40 J. Public entities that agree pursuant to contract to perform
41 background investigations, public schools, the department of education and
42 previous employers who provide information pursuant to this section are
43 immune from civil liability unless the information provided is false and is
44 acted on by the school district to the harm of the employee and the public
45 entity, the public school, the previous employer or the department of

1 education knows the information is false or acts with reckless disregard of
2 the information's truth or falsity. A school district which relies on
3 information obtained pursuant to this section in making employment decisions
4 is immune from civil liability for use of the information unless the
5 information obtained is false and the school district knows the information
6 is false or acts with reckless disregard of the information's truth or
7 falsity.

8 K. The superintendent of a school district or chief administrator of a
9 charter school or the person's designee who is responsible for implementing
10 the governing board's policy regarding background investigations required by
11 subsection F of this section and who fails to carry out that responsibility
12 is guilty of unprofessional conduct and shall be subject to disciplinary
13 action by the state board.

14 L. A school district may hire noncertificated personnel before
15 receiving the results of the fingerprint check but may terminate employment
16 if the information on the form provided in subsection D of this section is
17 inconsistent with the information received from the fingerprint check. In
18 addition to any other conditions or requirements deemed necessary by the
19 superintendent of public instruction to protect the health and safety of
20 pupils, noncertificated personnel who are required or allowed unsupervised
21 contact with pupils may be hired by school districts before the results of a
22 fingerprint check are received if all of the following conditions are met:

23 1. The school district that is seeking to hire the applicant shall
24 document in the applicant's file the necessity for hiring and placement of
25 the applicant before a fingerprint check could be completed.

26 2. The school district that is seeking to hire the applicant shall do
27 all of the following:

28 (a) Ensure that the department of public safety completes a statewide
29 criminal history information check on the applicant. A statewide criminal
30 history information check shall be completed by the department of public
31 safety every one hundred twenty days until the date that the fingerprint
32 check is completed.

33 (b) Obtain references from the applicant's current employer and two
34 most recent previous employers except for applicants who have been employed
35 for at least five years by the applicant's most recent employer.

36 (c) Provide general supervision of the applicant until the date that
37 the fingerprint check is completed.

38 (d) Report to the superintendent of public instruction on June 30 and
39 December 31 the number of applicants hired before the completion of a
40 fingerprint check. In addition, the school district shall report the number
41 of applicants for whom fingerprint checks were not received after one hundred
42 twenty days and after one hundred seventy-five days of hire.

43 M. Notwithstanding any other law, this section does not apply to
44 pupils who attend school in a school district and who are also employed by a
45 school district.

N. A person who makes a false statement, representation or certification in any application for employment with the school district is guilty of a class 3 misdemeanor.

O. For the purposes of this section, "background investigation" means any communication with an employee's or applicant's former employer that concerns the education, training, experience, qualifications and job performance of the employee or applicant and that is used for the purpose of evaluating the employee or applicant for employment. Background investigation does not include the results of any state or federal criminal history records check.

Sec. 7. Section 36-594.01, Arizona Revised Statutes, is amended to read:

36-594.01. Fingerprinting of contract providers and home and community based service providers

A. The following persons shall be fingerprinted pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07:

1. A person who is paid or who volunteers to work in a facility or program that is licensed by or that has entered into a contract with the division of developmental disabilities to provide services to persons with developmental disabilities.

2. A person who applies for certification as a home and community based service provider.

B. A person who is required to be fingerprinted pursuant to subsection A, paragraph 1 of this section shall have a valid fingerprint clearance card or shall apply for a fingerprint clearance card before providing services to persons with developmental disabilities.

C. A person who is required to be fingerprinted pursuant to subsection A, paragraph 2 of this section shall not be certified unless the person has a valid fingerprint clearance card or provides to the division of developmental disabilities documentation of the person's application for a fingerprint clearance card.

D. This section does not apply to home and community based service providers who provide attendant care and who are immediate relatives with whom the person with developmental disabilities resides.

E. Persons who are required to be fingerprinted pursuant to subsection A of this section shall certify on forms that are provided by the department whether the person is awaiting trial on or has been convicted of any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C.

F. The division of developmental disabilities in the department of economic security shall notify the department of public safety if the division receives credible evidence that a person who possesses a valid fingerprint clearance card either:

1. Is arrested for or charged with an offense listed in section ~~41-1758.03~~ 41-1758.07, subsection B OR C.

2. Falsified information on the form required by subsection E of this section.

Sec. 8. Section 36-594.02, Arizona Revised Statutes, is amended to read:

36-594.02. Fingerprinting of adult developmental home licensees and child developmental foster home licensees

~~If~~ A person who applies for a license for an adult developmental home or a child developmental foster home ~~has not been previously fingerprinted for any other license, certificate or program with the division of developmental disabilities, the person who applies for such a license shall have a valid fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1 or provide to the division documentation of the person's application for a fingerprint clearance card. Such a~~ SECTION 41-1758.07. THE person shall certify on forms that are provided by the department whether the person is awaiting trial on or has been convicted of any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses in another state or jurisdiction.

Sec. 9. Section 41-619.52, Arizona Revised Statutes, is amended to read:

41-619.52. Board of fingerprinting; organization; meetings

A. The board of fingerprinting is established consisting of the following members:

1. A representative of the supreme court who is appointed by the chief justice of the supreme court.

2. A representative of the department of economic security who is appointed by the director of the department of economic security.

3. A representative of the department of education who is appointed by the superintendent of public instruction.

4. A representative of the department of health services who is appointed by the director of the department of health services.

5. A representative of the department of juvenile corrections who is appointed by the director of the department of juvenile corrections.

B. At its initial meeting and annually thereafter, the board shall elect a chairperson and vice-chairperson from among its members and any other officers that are deemed necessary or advisable.

C. The board shall meet at least once each calendar quarter and additionally as the chairperson deems necessary. A majority of the members constitutes a quorum for the transaction of business.

D. Board members:

1. Serve at the pleasure of the appointing authority.

2. Are not eligible for compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

3. Shall have a valid fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07.

E. The chief justice, the superintendent of public instruction or a department director may designate an alternate member to represent a member who is appointed pursuant to subsection A by the chief justice, the superintendent of public instruction or a department director, respectively.

Sec. 10. Section 41-619.53, Arizona Revised Statutes, is amended to read:

41-619.53. Board of fingerprinting; powers and duties; personnel; liability

A. The board of fingerprinting shall:

1. Determine good cause exceptions pursuant to section 41-619.55. The board may appoint a hearing officer to recommend that an applicant be granted or denied a good cause exception after the hearing officer conducts an expedited review or a good cause exception hearing.

2. Adopt rules to implement this article, including rules to establish good cause exceptions for the issuance of fingerprint clearance cards pursuant to ~~section~~ **SECTIONS** 41-1758.03 **AND** 41-1758.07. This rule making is exempt from the requirements of chapter 6 of this title.

3. Administer and enforce this article and rules adopted pursuant to this article.

4. Furnish a copy of its rules, on request, to all applicants who petition the board for a good cause exception pursuant to section 41-1758.03 and, on request, to licensees, contract providers and state agencies.

5. Establish fees.

B. In order to grant a good cause exception, a majority plus an additional member, of the members present, must vote to approve the application. If the board grants a good cause exception, the board shall request in writing that the department of public safety issue a card to the applicant.

C. The board may employ clerical, professional and technical personnel subject to fee monies that are collected and to the budget that is approved by the board members and shall prescribe personnel duties and determine personnel compensation. Personnel employed by the board must have a valid fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~ **SECTION 41-1758.07**. If the applicant is denied a fingerprint clearance card, in order to be employed by the board, the board must grant a good cause exception pursuant to this article by a unanimous vote.

D. In making any recommendation to the board to grant or deny a good cause exception, the hearing officer shall consider all of the reasons and criteria prescribed in section 41-619.55, subsection E.

E. Members and employees of the board are not liable for acts done or actions taken by any board member or employee if the members or employees act in good faith following the requirements of this article.

1 Sec. 11. Section 41-619.54, Arizona Revised Statutes, is amended to
2 read:

3 41-619.54. Confidentiality of criminal record information:
4 exception: reporting

5 A. All criminal history record information that is maintained by the
6 board is confidential, except that criminal history record information may be
7 disclosed pursuant to a determination for a good cause exception pursuant to
8 section 41-619.55.

9 B. Persons who are present at a good cause exception hearing shall not
10 discuss or share any criminal history record information outside of the good
11 cause exception hearing.

12 C. Except as provided in subsection D of this section, criminal
13 history record information and good cause exception determinations and
14 hearings are exempt from title 39, chapter 1.

15 D. On or before December 1 of each year the board shall report the
16 number of applications for a good cause exception and the number of good
17 cause exceptions that were granted for the twelve month period ending
18 September 30. The report shall itemize the number of applications and the
19 number of applications granted for each of the sections listed in section
20 41-619.51, paragraph ~~6~~ 5. For each of these sections, the report shall
21 further itemize each offense listed in section 41-1758.03, subsections B and
22 C AND SECTION 41-1758.07, SUBSECTIONS B AND C for which a good cause
23 exception was applied for and for which a good cause exception was granted.
24 The board shall provide a copy of the report to the governor, the speaker of
25 the house of representatives and the president of the senate.

26 Sec. 12. Section 41-619.55, Arizona Revised Statutes, is amended to
27 read:

28 41-619.55. Good cause exceptions: expedited review: hearing:
29 revocation

30 A. The board shall determine good cause exceptions. The board shall
31 determine a good cause exception after an expedited review or after a good
32 cause exception hearing. The board shall conduct an expedited review within
33 twenty days after receiving an application for a good cause exception.

34 B. Within forty-five days after conducting an expedited review, the
35 board shall hold a good cause exception hearing if the board determines that
36 the applicant does not qualify for a good cause exception under an expedited
37 review but is qualified to apply for a good cause exception and the applicant
38 submits an application for a good cause exception within the time limits
39 prescribed by rule.

40 C. When determining whether a person is eligible to receive a good
41 cause exception under an expedited review, the board shall consider whether
42 the person has shown to the board's satisfaction that the person is not
43 awaiting trial on or has not been convicted of committing any of the offenses
44 listed in section 41-1758.03, subsection B OR SECTION 41-1758.07, SUBSECTION
45 B or that the person is successfully rehabilitated and is not a recidivist.

1 Before granting a good cause exception under an expedited review, the board
2 shall consider all of the criteria listed in subsection E of this section.

3 D. The following persons shall be present during good cause exception
4 hearings:

5 1. The board or its hearing officer.

6 2. The person who requested the good cause exception hearing. The
7 person may be accompanied by a representative at the hearing.

8 E. The board may grant a good cause exception at a hearing if the
9 person shows to the board's satisfaction that the person is not awaiting
10 trial on or has not been convicted of committing any of the offenses listed
11 in section 41-1758.03, subsection B OR SECTION 41-1758.07, SUBSECTION B or
12 that the person is successfully rehabilitated and is not a recidivist.
13 Notwithstanding any other law, the board may require applicants to disclose
14 evidence regarding substantiated allegations of child abuse or neglect for
15 consideration in determining an applicant's successful rehabilitation. The
16 board shall grant or deny a good cause exception within eighty days after the
17 good cause exception hearing. Before granting a good cause exception at a
18 hearing the board shall consider all of the following in accordance with
19 board rule:

20 1. The extent of the person's criminal record.

21 2. The length of time that has elapsed since the offense was
22 committed.

23 3. The nature of the offense.

24 4. Any applicable mitigating circumstances.

25 5. The degree to which the person participated in the offense.

26 6. The extent of the person's rehabilitation, including:

27 (a) Completion of probation, parole or community supervision.

28 (b) Whether the person paid restitution or other compensation for the
29 offense.

30 (c) Evidence of positive action to change criminal behavior, such as
31 completion of a drug treatment program or counseling.

32 (d) Personal references attesting to the person's rehabilitation.

33 F. If the board grants a good cause exception to a person, the board
34 shall request in writing that the department of public safety issue a
35 fingerprint clearance card to the person.

36 G. The board's staff, under the direction of the executive director of
37 the board, shall review reports it receives of the arrest, charging or
38 conviction of a person for offenses listed in ~~section~~ SECTIONS 41-1758.03 AND
39 41-1758.07 who previously received a fingerprint clearance card. Except as
40 provided by subsection J of this section, the executive director shall report
41 any arrest, charge or conviction of a prohibited crime to the state agencies
42 listed on the applicant's fingerprint clearance card application.

43 H. The board may request in writing that the department of public
44 safety revoke a person's fingerprint clearance card pursuant to section
45 41-1758.04 if the person received a fingerprint clearance card and the person

1 is subsequently convicted of an offense listed in section 41-1758.03,
2 subsection B or C OR SECTION 41-1758.07, SUBSECTION B OR C.

3 I. Pending the outcome of a good cause exception determination, the
4 board or its hearing officer may issue interim approval in accordance with
5 board rule to continue working to a good cause exception applicant.

6 J. If the board's staff, under the direction of the executive
7 director, receives a report of an arrest, charging or conviction of a
8 prohibited crime for a person who previously received a fingerprint clearance
9 card pursuant to section 15-1881, the executive director shall not report
10 this information to the state agency that is listed on the applicant's
11 fingerprint clearance card application but shall notify the person issued the
12 fingerprint clearance card of the report.

13 K. The board is exempt from ~~title 41,~~ chapter 6, article 10 OF THIS
14 TITLE.

15 L. A person who is required to obtain a fingerprint clearance card
16 pursuant to section 41-619.52 is not eligible to receive a good cause
17 exception pursuant to this section.

18 Sec. 13. Section 41-1758.01, Arizona Revised Statutes, is amended to
19 read:

20 41-1758.01. Fingerprinting division; duties

21 The fingerprinting division is established in the department of public
22 safety and shall:

23 1. Conduct fingerprint background checks for persons and applicants
24 who are seeking employment with licensees, contract providers and state
25 agencies or seeking employment or educational opportunities with agencies
26 that require fingerprint background checks pursuant to sections 8-105, 8-322,
27 8-509, 8-802, 15-183, 15-534, 15-1330, 15-1881, 26-103, 36-411, 36-425.03,
28 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03,
29 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and
30 41-2814, section 46-141, subsection A and section 46-321.

31 2. Issue fingerprint clearance cards. On issuance, a fingerprint
32 clearance card becomes the personal property of the cardholder and the
33 cardholder shall retain possession of the fingerprint clearance card.

34 3. On submission of an application for a fingerprint clearance card,
35 collect the fees established by the board of fingerprinting pursuant to
36 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the
37 monies collected in the board of fingerprinting fund.

38 4. Inform in writing each person who submits fingerprints for a
39 fingerprint background check of the person's right to petition the board of
40 fingerprinting for a good cause exception pursuant to ~~section~~ SECTIONS
41 41-1758.03 AND 41-1758.07.

42 5. Administer and enforce this article.

1 Sec. 14. Section 41-1758.03, Arizona Revised Statutes, is amended to
2 read:

3 41-1758.03. Fingerprint clearance cards; issuance; immunity

4 A. On receiving the state and federal criminal history record of a
5 person, the division shall compare the record with the list of criminal
6 offenses that preclude the person from receiving a fingerprint clearance
7 card. If the person's criminal history record does not contain any of the
8 offenses listed in subsections B and C of this section, the division shall
9 issue the person a fingerprint clearance card.

10 B. A person who is subject to registration as a sex offender in this
11 state or any other jurisdiction or who is awaiting trial on or who has been
12 convicted of committing or attempting, soliciting, facilitating or conspiring
13 to commit one or more of the following offenses in this state or the same or
14 similar offenses in another state or jurisdiction is precluded from receiving
15 a fingerprint clearance card:

- 16 1. Sexual abuse of a vulnerable adult.
- 17 2. Incest.
- 18 3. First or second degree murder.
- 19 4. Sexual assault.
- 20 5. Sexual exploitation of a minor.
- 21 6. Sexual exploitation of a vulnerable adult.
- 22 7. Commercial sexual exploitation of a minor.
- 23 8. Commercial sexual exploitation of a vulnerable adult.
- 24 9. Child prostitution as prescribed in section 13-3212.
- 25 10. Child abuse.
- 26 11. Abuse of a vulnerable adult.
- 27 12. Sexual conduct with a minor.
- 28 13. Molestation of a child.
- 29 14. Molestation of a vulnerable adult.
- 30 15. A dangerous crime against children as defined in section 13-705.
- 31 16. Exploitation of minors involving drug offenses.
- 32 17. Taking a child for the purposes of prostitution as prescribed in
33 section 13-3206.
- 34 18. Neglect or abuse of a vulnerable adult.
- 35 19. Sex trafficking.
- 36 20. Sexual abuse.
- 37 21. Production, publication, sale, possession and presentation of
38 obscene items as prescribed in section 13-3502.
- 39 22. Furnishing harmful items to minors as prescribed in section
40 13-3506.
- 41 23. Furnishing harmful items to minors by internet activity as
42 prescribed in section 13-3506.01.
- 43 24. Obscene or indecent telephone communications to minors for
44 commercial purposes as prescribed in section 13-3512.
- 45 25. Luring a minor for sexual exploitation.

- 1 26. Enticement of persons for purposes of prostitution.
- 2 27. Procurement by false pretenses of person for purposes of
- 3 prostitution.
- 4 28. Procuring or placing persons in a house of prostitution.
- 5 29. Receiving earnings of a prostitute.
- 6 30. Causing one's spouse to become a prostitute.
- 7 31. Detention of persons in a house of prostitution for debt.
- 8 32. Keeping or residing in a house of prostitution or employment in
- 9 prostitution.
- 10 33. Pandering.
- 11 34. Transporting persons for the purpose of prostitution, polygamy and
- 12 concubinage.
- 13 35. Portraying adult as a minor as prescribed in section 13-3555.
- 14 36. Admitting minors to public displays of sexual conduct as prescribed
- 15 in section 13-3558.
- 16 37. UNLAWFUL SALE OR PURCHASE OF CHILDREN.
- 17 38. CHILD BIGAMY.
- 18 C. A person who is awaiting trial on or who has been convicted of
- 19 committing or attempting, soliciting, facilitating or conspiring to commit
- 20 one or more of the following offenses in this state or the same or similar
- 21 offenses in another state or jurisdiction is precluded from receiving a
- 22 fingerprint clearance card, except that the person may petition the board of
- 23 fingerprinting for a good cause exception pursuant to section 41-619.55:
- 24 1. Manslaughter.
- 25 2. Endangerment.
- 26 3. Threatening or intimidating.
- 27 4. Assault.
- 28 5. Unlawfully administering intoxicating liquors, narcotic drugs or
- 29 dangerous drugs.
- 30 6. Assault by vicious animals.
- 31 7. Drive by shooting.
- 32 8. Assaults on officers or fire fighters.
- 33 9. Discharging a firearm at a structure.
- 34 10. Indecent exposure.
- 35 11. Public sexual indecency.
- 36 12. Aggravated criminal damage.
- 37 13. Theft.
- 38 14. Theft by extortion.
- 39 15. Shoplifting.
- 40 16. Forgery.
- 41 17. Criminal possession of a forgery device.
- 42 18. Obtaining a signature by deception.
- 43 19. Criminal impersonation.
- 44 20. Theft of a credit card or obtaining a credit card by fraudulent
- 45 means.

- 1 21. Receipt of anything of value obtained by fraudulent use of a credit
2 card.
- 3 22. Forgery of a credit card.
- 4 23. Fraudulent use of a credit card.
- 5 24. Possession of any machinery, plate or other contrivance or
6 incomplete credit card.
- 7 25. False statement as to financial condition or identity to obtain a
8 credit card.
- 9 26. Fraud by persons authorized to provide goods or services.
- 10 27. Credit card transaction record theft.
- 11 28. Misconduct involving weapons.
- 12 29. Misconduct involving explosives.
- 13 30. Depositing explosives.
- 14 31. Misconduct involving simulated explosive devices.
- 15 32. Concealed weapon violation.
- 16 33. Possession and sale of peyote.
- 17 34. Possession and sale of a vapor-releasing substance containing a
18 toxic substance.
- 19 35. Sale of precursor chemicals.
- 20 36. Possession, use or sale of marijuana, dangerous drugs or narcotic
21 drugs.
- 22 37. Manufacture or distribution of an imitation controlled substance.
- 23 38. Manufacture or distribution of an imitation prescription-only drug.
- 24 39. Manufacture or distribution of an imitation over-the-counter drug.
- 25 40. Possession or possession with intent to use an imitation controlled
26 substance.
- 27 41. Possession or possession with intent to use an imitation
28 prescription-only drug.
- 29 42. Possession or possession with intent to use an imitation
30 over-the-counter drug.
- 31 43. Manufacture of certain substances and drugs by certain means.
- 32 44. Adding poison or other harmful substance to food, drink or
33 medicine.
- 34 45. A criminal offense involving criminal trespass and burglary under
35 title 13, chapter 15.
- 36 46. A criminal offense under title 13, chapter 23.
- 37 47. Child neglect.
- 38 48. Misdemeanor offenses involving contributing to the delinquency of a
39 minor.
- 40 49. Offenses involving domestic violence.
- 41 50. Arson.
- 42 51. Kidnapping.
- 43 52. Felony offenses involving sale, distribution or transportation of,
44 offer to sell, transport or distribute or conspiracy to sell, transport or
45 distribute marijuana, dangerous drugs or narcotic drugs.

1 53. Robbery.
2 54. Aggravated assault.
3 55. Felony offenses involving contributing to the delinquency of a
4 minor.
5 56. Negligent homicide.
6 57. Criminal damage.
7 58. Misappropriation of charter school monies as prescribed in section
8 13-1818.
9 59. Taking identity of another person or entity.
10 60. Aggravated taking identity of another person or entity.
11 61. Trafficking in the identity of another person or entity.
12 62. Cruelty to animals.
13 63. Prostitution.
14 64. Sale or distribution of material harmful to minors through vending
15 machines as prescribed in section 13-3513.
16 65. Welfare fraud.
17 D. A person who is awaiting trial on or who has been convicted of
18 committing or attempting or conspiring to commit a violation of section
19 28-1381, 28-1382 or 28-1383 in this state or the same or similar offense in
20 another state or jurisdiction within five years from the date of applying for
21 a fingerprint clearance card is precluded from driving any vehicle to
22 transport employees or clients of the employing agency as part of the
23 person's employment. The division shall place a notation on the fingerprint
24 clearance card that indicates this driving restriction. This subsection does
25 not preclude a person from driving a vehicle alone as part of the person's
26 employment.
27 E. Notwithstanding subsection C of this section, on receiving written
28 notice from the board of fingerprinting that a good cause exception was
29 granted pursuant to section 41-619.55, the division shall issue a fingerprint
30 clearance card to the person.
31 F. If the division denies a person's application for a fingerprint
32 clearance card pursuant to subsection C of this section and a good cause
33 exception is requested pursuant to section 41-619.55, the division shall
34 release, on request by the board of fingerprinting, the person's criminal
35 history record to the board of fingerprinting.
36 G. A person shall be granted a fingerprint clearance card if either of
37 the following applies:
38 1. An agency granted a good cause exception before August 16, 1999 and
39 no new precluding offense is identified. The fingerprint clearance card
40 shall specify only the program that granted the good cause exception. On the
41 request of the applicant, the agency that granted the prior good cause
42 exception shall notify the division in writing of the date on which the prior
43 good cause exception was granted and the date of the conviction and the name
44 of the offense for which the good cause exception was granted.

2. The board granted a good cause exception and no new precluding offense is identified. The fingerprint clearance card shall specify the programs for which the board granted the good cause exception.

H. The licensee or contract provider shall assume the costs of fingerprint checks and may charge these costs to persons required to be fingerprinted.

I. A person who is under eighteen years of age or who is at least ninety-nine years of age is exempt from the fingerprint clearance card requirements of this section. At all times the person shall be under the direct visual supervision of personnel who have valid fingerprint clearance cards.

J. The division may conduct periodic state criminal history records checks for the purpose of updating the clearance status of current fingerprint clearance card holders and may notify the board of fingerprinting and the agency employing the person of the results of the records check.

K. The division shall revoke a person's fingerprint clearance card on receipt of a written request for revocation from the board of fingerprinting pursuant to section 41-619.55.

L. The division shall not issue a fingerprint clearance card to a person if the division cannot determine, within thirty business days after receipt of the person's state and federal criminal history record information, whether the person is awaiting trial on or has been convicted of committing any of the offenses listed in subsection B or C of this section. If the division is unable to make the determination required by this section and does not issue a fingerprint clearance card to a person, the person may request a good cause exception pursuant to section 41-619.55.

M. Except as provided in subsection N of this section, if after conducting a state and federal criminal history ~~record~~ RECORDS check the division determines that it is not authorized to issue a fingerprint clearance card to a person, the division shall notify the agency that licenses or employs the person that the division is not authorized to issue a fingerprint clearance card. This notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

N. If, after conducting a state and federal criminal history ~~record~~ RECORDS check on a person who requests a fingerprint clearance card pursuant to section 15-1881, the division determines that it is not authorized to issue a fingerprint clearance card to the person, the division shall not notify the agency. The division shall notify the person who requested the card that the division is not authorized to issue a fingerprint clearance card.

1 0. The division is not liable for damages resulting from:

2 1. The issuance of a fingerprint clearance card to a person who is
3 later found to have been ineligible to receive a fingerprint clearance card
4 at the time the card was issued.

5 2. The denial of a fingerprint clearance card to a person who is later
6 found to have been eligible to receive a fingerprint clearance card at the
7 time issuance of the card was denied.

8 P. The issuance of a fingerprint clearance card does not entitle a
9 person to employment.

10 Q. NOTWITHSTANDING ANY LAW TO THE CONTRARY, A PERSON MAY APPLY FOR AND
11 RECEIVE A LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO SECTION 41-1758.07
12 TO SATISFY A REQUIREMENT THAT THE PERSON HAVE A VALID FINGERPRINT CLEARANCE
13 CARD ISSUED PURSUANT TO THIS SECTION.

14 Sec. 15. Section 41-1758.04, Arizona Revised Statutes, is amended to
15 read:

16 41-1758.04. Denial, suspension or revocation of fingerprint
17 clearance card

18 A. The division shall deny the issuance of a fingerprint clearance
19 card to any person who is awaiting trial on or who has been convicted of an
20 offense listed in section 41-1758.03, subsection B or C OR SECTION
21 41-1758.07, SUBSECTION B OR C.

22 B. The division shall revoke the fingerprint clearance card of a
23 person who has received a fingerprint clearance card and who is subsequently
24 convicted of an offense listed in section 41-1758.03, subsection B OR SECTION
25 41-1758.07, SUBSECTION B.

26 C. The division shall suspend the fingerprint clearance card of a
27 person who is arrested for an offense listed in section 41-1758.03,
28 subsection B or C OR SECTION 41-1758.07, SUBSECTION B OR C.

29 D. A person who has been arrested for an offense listed in section
30 41-1758.03, subsection C OR SECTION 41-1758.07, SUBSECTION C and whose
31 fingerprint clearance card has been suspended pursuant to this section may
32 request a good cause exception hearing pursuant to section 41-619.55.

33 Sec. 16. Title 41, chapter 12, article 3.1, Arizona Revised Statutes,
34 is amended by adding section 41-1758.07, to read:

35 41-1758.07. Level I fingerprint clearance cards; definitions

36 A. ON RECEIVING THE STATE AND FEDERAL CRIMINAL HISTORY RECORD OF A
37 PERSON WHO IS REQUIRED TO BE FINGERPRINTED PURSUANT TO THIS SECTION, THE
38 FINGERPRINTING DIVISION IN THE DEPARTMENT OF PUBLIC SAFETY SHALL COMPARE THE
39 RECORD WITH THE LIST OF CRIMINAL OFFENSES THAT PRECLUDE THE PERSON FROM
40 RECEIVING A FINGERPRINT CLEARANCE CARD. IF THE PERSON'S CRIMINAL HISTORY
41 RECORD DOES NOT CONTAIN ANY OF THE OFFENSES LISTED IN SUBSECTIONS B AND C OF
42 THIS SECTION, THE FINGERPRINTING DIVISION SHALL ISSUE THE PERSON A LEVEL I
43 FINGERPRINT CLEARANCE CARD.

44 B. A PERSON WHO IS SUBJECT TO REGISTRATION AS A SEX OFFENDER IN THIS
45 STATE OR ANY OTHER JURISDICTION OR WHO IS AWAITING TRIAL ON OR WHO HAS BEEN

1 CONVICTED OF COMMITTING OR ATTEMPTING, SOLICITING, FACILITATING OR CONSPIRING
2 TO COMMIT ONE OR MORE OF THE FOLLOWING OFFENSES IN THIS STATE OR THE SAME OR
3 SIMILAR OFFENSES IN ANOTHER STATE OR JURISDICTION IS PRECLUDED FROM RECEIVING
4 A FINGERPRINT CLEARANCE CARD:

- 5 1. SEXUAL ABUSE OF A VULNERABLE ADULT.
- 6 2. INCEST.
- 7 3. HOMICIDE, INCLUDING FIRST OR SECOND DEGREE MURDER, MANSLAUGHTER AND
8 NEGLIGENT HOMICIDE.
- 9 4. SEXUAL ASSAULT.
- 10 5. SEXUAL EXPLOITATION OF A MINOR.
- 11 6. SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 12 7. COMMERCIAL SEXUAL EXPLOITATION OF A MINOR.
- 13 8. COMMERCIAL SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 14 9. CHILD PROSTITUTION AS PRESCRIBED IN SECTION 13-3212.
- 15 10. CHILD ABUSE.
- 16 11. FELONY CHILD NEGLECT.
- 17 12. ABUSE OF A VULNERABLE ADULT.
- 18 13. SEXUAL CONDUCT WITH A MINOR.
- 19 14. MOLESTATION OF A CHILD.
- 20 15. MOLESTATION OF A VULNERABLE ADULT.
- 21 16. DANGEROUS CRIMES AGAINST CHILDREN AS DEFINED IN SECTION 13-705.
- 22 17. EXPLOITATION OF MINORS INVOLVING DRUG OFFENSES.
- 23 18. TAKING A CHILD FOR THE PURPOSES OF PROSTITUTION AS PRESCRIBED IN
24 SECTION 13-3206.
- 25 19. NEGLECT OR ABUSE OF A VULNERABLE ADULT.
- 26 20. SEX TRAFFICKING.
- 27 21. SEXUAL ABUSE.
- 28 22. PRODUCTION, PUBLICATION, SALE, POSSESSION AND PRESENTATION OF
29 OBSCENE ITEMS AS PRESCRIBED IN SECTION 13-3502.
- 30 23. FURNISHING HARMFUL ITEMS TO MINORS AS PRESCRIBED IN SECTION
31 13-3506.
- 32 24. FURNISHING HARMFUL ITEMS TO MINORS BY INTERNET ACTIVITY AS
33 PRESCRIBED IN SECTION 13-3506.01.
- 34 25. OBSCENE OR INDECENT TELEPHONE COMMUNICATIONS TO MINORS FOR
35 COMMERCIAL PURPOSES AS PRESCRIBED IN SECTION 13-3512.
- 36 26. LURING A MINOR FOR SEXUAL EXPLOITATION.
- 37 27. ENTICEMENT OF PERSONS FOR PURPOSES OF PROSTITUTION.
- 38 28. PROCUREMENT BY FALSE PRETENSES OF PERSON FOR PURPOSES OF
39 PROSTITUTION.
- 40 29. PROCURING OR PLACING PERSONS IN A HOUSE OF PROSTITUTION.
- 41 30. RECEIVING EARNINGS OF A PROSTITUTE.
- 42 31. CAUSING ONE'S SPOUSE TO BECOME A PROSTITUTE.
- 43 32. DETENTION OF PERSONS IN A HOUSE OF PROSTITUTION FOR DEBT.
- 44 33. KEEPING OR RESIDING IN A HOUSE OF PROSTITUTION OR EMPLOYMENT IN
45 PROSTITUTION.

1 34. PANDERING.
2 35. TRANSPORTING PERSONS FOR THE PURPOSE OF PROSTITUTION, POLYGAMY AND
3 CONCUBINAGE.
4 36. PORTRAYING ADULT AS A MINOR AS PRESCRIBED IN SECTION 13-3555.
5 37. ADMITTING MINORS TO PUBLIC DISPLAYS OF SEXUAL CONDUCT AS PRESCRIBED
6 IN SECTION 13-3558.
7 38. ANY FELONY OFFENSE INVOLVING CONTRIBUTING TO THE DELINQUENCY OF A
8 MINOR.
9 39. UNLAWFUL SALE OR PURCHASE OF CHILDREN.
10 40. CHILD BIGAMY.
11 41. ANY FELONY OFFENSE INVOLVING DOMESTIC VIOLENCE AS DEFINED IN
12 SECTION 13-3601 EXCEPT FOR A FELONY OFFENSE ONLY INVOLVING CRIMINAL DAMAGE IN
13 AN AMOUNT OF MORE THAN TWO HUNDRED FIFTY DOLLARS BUT LESS THAN TWO THOUSAND
14 DOLLARS IF THE OFFENSE WAS COMMITTED BEFORE THE EFFECTIVE DATE OF THIS
15 SECTION.
16 42. ANY FELONY OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12 IF
17 COMMITTED WITHIN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT
18 CLEARANCE CARD.
19 43. FELONY DRUG OR ALCOHOL RELATED OFFENSES IF COMMITTED WITHIN FIVE
20 YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
21 44. FELONY INDECENT EXPOSURE.
22 45. FELONY PUBLIC SEXUAL INDECENCY.
23 46. TERRORISM.
24 47. ANY OFFENSE INVOLVING A VIOLENT CRIME AS DEFINED IN SECTION
25 13-901.03.
26 C. A PERSON WHO IS AWAITING TRIAL ON OR WHO HAS BEEN CONVICTED OF
27 COMMITTING OR ATTEMPTING, SOLICITING, FACILITATING OR CONSPIRING TO COMMIT
28 ONE OR MORE OF THE FOLLOWING OFFENSES IN THIS STATE OR THE SAME OR SIMILAR
29 OFFENSES IN ANOTHER STATE OR JURISDICTION IS PRECLUDED FROM RECEIVING A
30 FINGERPRINT CLEARANCE CARD, EXCEPT THAT THE PERSON MAY PETITION THE BOARD OF
31 FINGERPRINTING FOR A GOOD CAUSE EXCEPTION PURSUANT TO SECTION 41-619.55:
32 1. ANY MISDEMEANOR OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12.
33 2. MISDEMEANOR INDECENT EXPOSURE.
34 3. MISDEMEANOR PUBLIC SEXUAL INDECENCY.
35 4. AGGRAVATED CRIMINAL DAMAGE.
36 5. THEFT.
37 6. THEFT BY EXTORTION.
38 7. SHOPLIFTING.
39 8. FORGERY.
40 9. CRIMINAL POSSESSION OF A FORGERY DEVICE.
41 10. OBTAINING A SIGNATURE BY DECEPTION.
42 11. CRIMINAL IMPERSONATION.
43 12. THEFT OF A CREDIT CARD OR OBTAINING A CREDIT CARD BY FRAUDULENT
44 MEANS.

- 1 13. RECEIPT OF ANYTHING OF VALUE OBTAINED BY FRAUDULENT USE OF A CREDIT
2 CARD.
- 3 14. FORGERY OF A CREDIT CARD.
- 4 15. FRAUDULENT USE OF A CREDIT CARD.
- 5 16. POSSESSION OF ANY MACHINERY, PLATE OR OTHER CONTRIVANCE OR
6 INCOMPLETE CREDIT CARD.
- 7 17. FALSE STATEMENT AS TO FINANCIAL CONDITION OR IDENTITY TO OBTAIN A
8 CREDIT CARD.
- 9 18. FRAUD BY PERSONS AUTHORIZED TO PROVIDE GOODS OR SERVICES.
- 10 19. CREDIT CARD TRANSACTION RECORD THEFT.
- 11 20. MISCONDUCT INVOLVING WEAPONS.
- 12 21. MISCONDUCT INVOLVING EXPLOSIVES.
- 13 22. DEPOSITING EXPLOSIVES.
- 14 23. MISCONDUCT INVOLVING SIMULATED EXPLOSIVE DEVICES.
- 15 24. CONCEALED WEAPON VIOLATION.
- 16 25. MISDEMEANOR POSSESSION AND MISDEMEANOR SALE OF PEYOTE.
- 17 26. FELONY POSSESSION AND FELONY SALE OF PEYOTE IF COMMITTED MORE THAN
18 FIVE YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 19 27. MISDEMEANOR POSSESSION AND MISDEMEANOR SALE OF A VAPOR-RELEASING
20 SUBSTANCE CONTAINING A TOXIC SUBSTANCE.
- 21 28. FELONY POSSESSION AND FELONY SALE OF A VAPOR-RELEASING SUBSTANCE
22 CONTAINING A TOXIC SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
23 DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 24 29. MISDEMEANOR SALE OF PRECURSOR CHEMICALS.
- 25 30. FELONY SALE OF PRECURSOR CHEMICALS IF COMMITTED MORE THAN FIVE
26 YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 27 31. MISDEMEANOR POSSESSION, MISDEMEANOR USE OR MISDEMEANOR SALE OF
28 MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS.
- 29 32. FELONY POSSESSION, FELONY USE OR FELONY SALE OF MARIJUANA,
30 DANGEROUS DRUGS OR NARCOTIC DRUGS IF COMMITTED MORE THAN FIVE YEARS BEFORE
31 THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 32 33. MISDEMEANOR MANUFACTURE OR MISDEMEANOR DISTRIBUTION OF AN IMITATION
33 CONTROLLED SUBSTANCE.
- 34 34. FELONY MANUFACTURE OR FELONY DISTRIBUTION OF AN IMITATION
35 CONTROLLED SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF
36 APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 37 35. MISDEMEANOR MANUFACTURE OR MISDEMEANOR DISTRIBUTION OF AN IMITATION
38 PRESCRIPTION-ONLY DRUG.
- 39 36. FELONY MANUFACTURE OR FELONY DISTRIBUTION OF AN IMITATION
40 PRESCRIPTION-ONLY DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF
41 APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 42 37. MISDEMEANOR MANUFACTURE OR MISDEMEANOR DISTRIBUTION OF AN IMITATION
43 OVER-THE-COUNTER DRUG.

1 38. FELONY MANUFACTURE OR FELONY DISTRIBUTION OF AN IMITATION
2 OVER-THE-COUNTER DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF
3 APPLYING FOR A FINGERPRINT CLEARANCE CARD.

4 39. MISDEMEANOR POSSESSION OR MISDEMEANOR POSSESSION WITH INTENT TO USE
5 AN IMITATION CONTROLLED SUBSTANCE.

6 40. FELONY POSSESSION OR FELONY POSSESSION WITH INTENT TO USE AN
7 IMITATION CONTROLLED SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
8 DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.

9 41. MISDEMEANOR POSSESSION OR MISDEMEANOR POSSESSION WITH INTENT TO USE
10 AN IMITATION PRESCRIPTION-ONLY DRUG.

11 42. FELONY POSSESSION OR FELONY POSSESSION WITH INTENT TO USE AN
12 IMITATION PRESCRIPTION-ONLY DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
13 DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.

14 43. MISDEMEANOR POSSESSION OR MISDEMEANOR POSSESSION WITH INTENT TO USE
15 AN IMITATION OVER-THE-COUNTER DRUG.

16 44. FELONY POSSESSION OR FELONY POSSESSION WITH INTENT TO USE AN
17 IMITATION OVER-THE-COUNTER DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
18 DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.

19 45. MISDEMEANOR MANUFACTURE OF CERTAIN SUBSTANCES AND DRUGS BY CERTAIN
20 MEANS.

21 46. FELONY MANUFACTURE OF CERTAIN SUBSTANCES AND DRUGS BY CERTAIN MEANS
22 IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A
23 FINGERPRINT CLEARANCE CARD.

24 47. ADDING POISON OR OTHER HARMFUL SUBSTANCE TO FOOD, DRINK OR
25 MEDICINE.

26 48. A CRIMINAL OFFENSE INVOLVING CRIMINAL TRESPASS AND BURGLARY UNDER
27 TITLE 13, CHAPTER 15.

28 49. A CRIMINAL OFFENSE UNDER TITLE 13, CHAPTER 23, EXCEPT TERRORISM.

29 50. MISDEMEANOR OFFENSES INVOLVING CHILD NEGLECT.

30 51. MISDEMEANOR OFFENSES INVOLVING CONTRIBUTING TO THE DELINQUENCY OF A
31 MINOR.

32 52. MISDEMEANOR OFFENSES INVOLVING DOMESTIC VIOLENCE AS DEFINED IN
33 SECTION 13-3601.

34 53. FELONY OFFENSES INVOLVING DOMESTIC VIOLENCE IF THE OFFENSE ONLY
35 INVOLVED CRIMINAL DAMAGE IN AN AMOUNT OF MORE THAN TWO HUNDRED FIFTY DOLLARS
36 BUT LESS THAN TWO THOUSAND DOLLARS AND THE OFFENSE WAS COMMITTED BEFORE THE
37 EFFECTIVE DATE OF THIS SECTION.

38 54. ARSON.

39 55. FELONY OFFENSES INVOLVING SALE, DISTRIBUTION OR TRANSPORTATION OF,
40 OFFER TO SELL, TRANSPORT OR DISTRIBUTE OR CONSPIRACY TO SELL, TRANSPORT OR
41 DISTRIBUTE MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS IF COMMITTED MORE
42 THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.

43 56. CRIMINAL DAMAGE.

44 57. MISAPPROPRIATION OF CHARTER SCHOOL MONIES AS PRESCRIBED IN SECTION
45 13-1818.

1 58. TAKING IDENTITY OF ANOTHER PERSON OR ENTITY.
2 59. AGGRAVATED TAKING IDENTITY OF ANOTHER PERSON OR ENTITY.
3 60. TRAFFICKING IN THE IDENTITY OF ANOTHER PERSON OR ENTITY.
4 61. CRUELTY TO ANIMALS.
5 62. PROSTITUTION, AS PRESCRIBED IN SECTION 13-3214.
6 63. SALE OR DISTRIBUTION OF MATERIAL HARMFUL TO MINORS THROUGH VENDING
7 MACHINES AS PRESCRIBED IN SECTION 13-3513.
8 64. WELFARE FRAUD.
9 65. ANY FELONY OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12 IF
10 COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT
11 CLEARANCE CARD.
12 66. KIDNAPPING.
13 67. ROBBERY, AGGRAVATED ROBBERY OR ARMED ROBBERY.
14 D. A PERSON WHO IS AWAITING TRIAL ON OR WHO HAS BEEN CONVICTED OF
15 COMMITTING OR ATTEMPTING OR CONSPIRING TO COMMIT A MISDEMEANOR VIOLATION OF
16 SECTION 28-1381, 28-1382 OR 28-1383 IN THIS STATE OR THE SAME OR SIMILAR
17 OFFENSE IN ANOTHER STATE OR JURISDICTION WITHIN FIVE YEARS AFTER THE DATE OF
18 APPLYING FOR A FINGERPRINT CLEARANCE CARD IS PRECLUDED FROM DRIVING ANY
19 VEHICLE TO TRANSPORT EMPLOYEES OR CLIENTS OF THE EMPLOYING AGENCY AS PART OF
20 THE PERSON'S EMPLOYMENT. THE DIVISION SHALL PLACE A NOTATION ON THE
21 FINGERPRINT CLEARANCE CARD THAT INDICATES THIS DRIVING RESTRICTION. THIS
22 SUBSECTION DOES NOT PRECLUDE A PERSON FROM DRIVING A VEHICLE ALONE AS PART OF
23 THE PERSON'S EMPLOYMENT.
24 E. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, ON RECEIVING WRITTEN
25 NOTICE FROM THE BOARD OF FINGERPRINTING THAT A GOOD CAUSE EXCEPTION WAS
26 GRANTED PURSUANT TO SECTION 41-619.55, THE FINGERPRINTING DIVISION SHALL
27 ISSUE A FINGERPRINT CLEARANCE CARD TO THE APPLICANT.
28 F. IF THE FINGERPRINTING DIVISION DENIES A PERSON'S APPLICATION FOR A
29 FINGERPRINT CLEARANCE CARD PURSUANT TO SUBSECTION C OF THIS SECTION AND A
30 GOOD CAUSE EXCEPTION IS REQUESTED PURSUANT TO SECTION 41-619.55, THE
31 FINGERPRINTING DIVISION SHALL RELEASE, ON REQUEST BY THE BOARD OF
32 FINGERPRINTING, THE PERSON'S CRIMINAL HISTORY RECORD TO THE BOARD OF
33 FINGERPRINTING.
34 G. A PERSON SHALL BE GRANTED A FINGERPRINT CLEARANCE CARD PURSUANT TO
35 THIS SECTION IF EITHER OF THE FOLLOWING APPLIES:
36 1. AN AGENCY GRANTED A GOOD CAUSE EXCEPTION BEFORE AUGUST 16, 1999 AND
37 NO NEW PRECLUDING OFFENSE IS IDENTIFIED. THE FINGERPRINT CLEARANCE CARD
38 SHALL SPECIFY ONLY THE PROGRAM THAT GRANTED THE GOOD CAUSE EXCEPTION. ON THE
39 REQUEST OF THE APPLICANT, THE AGENCY THAT GRANTED THE PRIOR GOOD CAUSE
40 EXCEPTION SHALL NOTIFY THE FINGERPRINTING DIVISION IN WRITING OF THE DATE ON
41 WHICH THE PRIOR GOOD CAUSE EXCEPTION WAS GRANTED AND THE DATE OF THE
42 CONVICTION AND THE NAME OF THE OFFENSE FOR WHICH THE GOOD CAUSE EXCEPTION WAS
43 GRANTED.

1 2. THE BOARD GRANTED A GOOD CAUSE EXCEPTION AND NO NEW PRECLUDING
2 OFFENSE IS IDENTIFIED. THE FINGERPRINT CLEARANCE CARD SHALL SPECIFY THE
3 PROGRAMS FOR WHICH THE BOARD GRANTED THE GOOD CAUSE EXCEPTION.

4 H. THE LICENSEE OR CONTRACT PROVIDER SHALL ASSUME THE COSTS OF
5 FINGERPRINT CHECKS CONDUCTED PURSUANT TO THIS SECTION AND MAY CHARGE THESE
6 COSTS TO PERSONS REQUIRED TO BE FINGERPRINTED.

7 I. A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE OR WHO IS AT LEAST
8 NINETY-NINE YEARS OF AGE IS EXEMPT FROM THE FINGERPRINT CLEARANCE CARD
9 REQUIREMENTS OF THIS SECTION. AT ALL TIMES THE PERSON SHALL BE UNDER THE
10 DIRECT VISUAL SUPERVISION OF PERSONNEL WHO HAVE VALID FINGERPRINT CLEARANCE
11 CARDS.

12 J. THE FINGERPRINTING DIVISION MAY CONDUCT PERIODIC STATE CRIMINAL
13 HISTORY RECORDS CHECKS FOR THE PURPOSE OF UPDATING THE CLEARANCE STATUS OF
14 CURRENT FINGERPRINT CLEARANCE CARD HOLDERS PURSUANT TO THIS SECTION AND MAY
15 NOTIFY THE BOARD OF FINGERPRINTING AND THE AGENCY OF THE RESULTS OF THE
16 RECORDS CHECK.

17 K. THE FINGERPRINTING DIVISION SHALL REVOKE A PERSON'S FINGERPRINT
18 CLEARANCE CARD ON RECEIPT OF A WRITTEN REQUEST FOR REVOCATION FROM THE BOARD
19 OF FINGERPRINTING PURSUANT TO SECTION 41-619.55.

20 L. THE FINGERPRINTING DIVISION SHALL NOT ISSUE A FINGERPRINT CLEARANCE
21 CARD TO AN APPLICANT IF THE DIVISION CANNOT DETERMINE, WITHIN THIRTY BUSINESS
22 DAYS AFTER RECEIPT OF THE PERSON'S STATE AND FEDERAL CRIMINAL HISTORY RECORD
23 INFORMATION, WHETHER THE PERSON IS AWAITING TRIAL ON OR HAS BEEN CONVICTED OF
24 COMMITTING ANY OF THE OFFENSES LISTED IN SUBSECTION B OR C OF THIS SECTION.
25 IF THE DIVISION IS UNABLE TO MAKE THE DETERMINATION REQUIRED BY THIS SECTION
26 AND DOES NOT ISSUE A FINGERPRINT CLEARANCE CARD TO A PERSON, THE PERSON MAY
27 REQUEST A GOOD CAUSE EXCEPTION PURSUANT TO SECTION 41-619.55.

28 M. IF AFTER CONDUCTING A STATE AND FEDERAL CRIMINAL HISTORY RECORDS
29 CHECK THE FINGERPRINTING DIVISION DETERMINES THAT IT IS NOT AUTHORIZED TO
30 ISSUE A FINGERPRINT CLEARANCE CARD TO AN APPLICANT, THE DIVISION SHALL NOTIFY
31 THE AGENCY THAT THE FINGERPRINTING DIVISION IS NOT AUTHORIZED TO ISSUE A
32 FINGERPRINT CLEARANCE CARD. THIS NOTICE SHALL INCLUDE THE CRIMINAL HISTORY
33 INFORMATION ON WHICH THE DENIAL WAS BASED. THIS CRIMINAL HISTORY INFORMATION
34 IS SUBJECT TO DISSEMINATION RESTRICTIONS PURSUANT TO SECTION 41-1750 AND
35 PUBLIC LAW 92-544.

36 N. THE FINGERPRINTING DIVISION IS NOT LIABLE FOR DAMAGES RESULTING
37 FROM:

38 1. THE ISSUANCE OF A FINGERPRINT CLEARANCE CARD TO AN APPLICANT WHO IS
39 LATER FOUND TO HAVE BEEN INELIGIBLE TO RECEIVE A FINGERPRINT CLEARANCE CARD
40 AT THE TIME THE CARD WAS ISSUED.

41 2. THE DENIAL OF A FINGERPRINT CLEARANCE CARD TO AN APPLICANT WHO IS
42 LATER FOUND TO HAVE BEEN ELIGIBLE TO RECEIVE A FINGERPRINT CLEARANCE CARD AT
43 THE TIME ISSUANCE OF THE CARD WAS DENIED.

44 O. NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN INDIVIDUAL MAY APPLY
45 FOR AND RECEIVE A LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION

1 TO SATISFY A REQUIREMENT THAT THE PERSON HAVE A VALID FINGERPRINT CLEARANCE
2 CARD ISSUED PURSUANT TO SECTION 41-1758.03.

3 P. NOTWITHSTANDING ANY LAW TO THE CONTRARY, EXCEPT AS PRESCRIBED
4 PURSUANT TO SUBSECTION R OF THIS SECTION, AN INDIVIDUAL WHO RECEIVES A
5 LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION ALSO SATISFIES A
6 REQUIREMENT THAT THE INDIVIDUAL HAVE A VALID FINGERPRINT CLEARANCE CARD
7 ISSUED PURSUANT TO SECTION 41-1758.03.

8 Q. AN AGENCY MAY REQUIRE ITS EMPLOYEES, CONTRACTORS AND VENDORS TO
9 HAVE A FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO THIS SECTION INSTEAD OF
10 SECTION 41-1758.03.

11 R. UNLESS A CARDHOLDER COMMITS AN OFFENSE LISTED IN SUBSECTION B OR C
12 OF THIS SECTION AFTER THE EFFECTIVE DATE OF THIS SECTION, A FINGERPRINT
13 CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03 BEFORE THE EFFECTIVE
14 DATE OF THIS SECTION AND ITS RENEWALS ARE VALID FOR ALL REQUIREMENTS FOR A
15 FINGERPRINT CLEARANCE CARD EXCEPT THOSE RELATING TO THE REQUIREMENTS OF
16 SECTION 8-105 OR 8-509. A FINGERPRINT CLEARANCE CARD ISSUED BEFORE THE
17 EFFECTIVE DATE OF THIS SECTION TO MEET THE REQUIREMENTS OF SECTION 8-105 OR
18 8-509 AND ITS RENEWALS ARE VALID AFTER THE EFFECTIVE DATE OF THIS SECTION TO
19 MEET ALL REQUIREMENTS FOR A FINGERPRINT CLEARANCE CARD, INCLUDING THE
20 REQUIREMENTS OF SECTION 8-105 OR 8-509 IF THE CARDHOLDER HAS BEEN CERTIFIED
21 BY THE COURT TO ADOPT OR HAS BEEN ISSUED A FOSTER HOME LICENSE BEFORE THE
22 EFFECTIVE DATE OF THIS SECTION.

23 S. THE ISSUANCE OF A FINGERPRINT CLEARANCE CARD DOES NOT ENTITLE A
24 PERSON TO EMPLOYMENT.

25 T. FOR THE PURPOSES OF THIS SECTION:

26 1. "PERSON" MEANS A PERSON WHO IS FINGERPRINTED PURSUANT TO:

27 (a) SECTION 8-105, 8-509, 8-802, 36-594.01, 36-594.02, 41-1964,
28 41-1967, 41-1967.01, 41-1968, 41-1969 OR 46-141.

29 (b) SUBSECTION O OR Q OF THIS SECTION.

30 2. "RENEWAL" MEANS THE ISSUANCE OF A FINGERPRINT CLEARANCE CARD TO AN
31 EXISTING FINGERPRINT CLEARANCE CARD HOLDER WHO APPLIES BEFORE THE PERSON'S
32 EXISTING FINGERPRINT CLEARANCE CARD EXPIRES.

33 Sec. 17. Section 41-1964, Arizona Revised Statutes, is amended to
34 read:

35 41-1964. Day care homes; child care personnel; fingerprints;
36 definition

37 A. Child care personnel shall have valid fingerprint clearance cards
38 issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07
39 or shall apply for a fingerprint clearance card no later than seven working
40 days from the date of certification by the department or within seven working
41 days after residing or working in the home of a child care home provider or
42 being designated as a backup provider.

43 B. Before certification or within seven working days after residing or
44 working in the home of a child care provider or being designated as a backup

1 provider, child care personnel shall certify on forms that are provided by
2 the department and notarized whether:

3 1. They are awaiting trial on or have been convicted of or admitted
4 committing any of the criminal offenses listed in section ~~41-1758.03~~
5 ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses in another
6 state or jurisdiction.

7 2. They are parents or guardians of a child adjudicated to be a
8 dependent child as defined in section 8-201.

9 3. They have been denied a license to operate a facility for the care
10 of children for cause in this state or another state or had a license or
11 certificate to operate such a facility revoked.

12 C. The department shall make documented, good faith efforts to contact
13 previous employers of certified day care home personnel to obtain information
14 or recommendations that may be relevant to an individual's fitness for work
15 in a certified day care home.

16 D. The notarized forms are confidential.

17 E. The department of economic security shall notify the department of
18 public safety if the department of economic security receives credible
19 evidence that any child care personnel who possesses a valid fingerprint
20 clearance card either:

21 1. Is arrested for or charged with an offense listed in section
22 ~~41-1758.03~~ 41-1758.07, subsection B OR C.

23 2. Falsified information on the form required by subsection B of this
24 section.

25 F. For the purposes of this section, "child care personnel" means
26 child care home providers, in-home providers and noncertified relative
27 providers as defined in section 46-801 and designated backup providers and
28 all persons who are eighteen years of age or older and who work or reside in
29 the home of a child care home provider.

30 Sec. 18. Section 41-1967, Arizona Revised Statutes, is amended to
31 read:

32 ~~41-1967.~~ 41-1967. Child care resource and referral system; immunity

33 A. The department shall establish and maintain a statewide child care
34 resource and referral system, including a child care home provider registry,
35 through community-based organizations to:

36 1. Provide families with:

37 (a) Information on all types of child care.

38 (b) Referrals to child care providers and programs.

39 (c) Information about child care resources and services.

40 (d) Information about choosing child care.

41 (e) Information about registered child care home providers.

42 2. Assist child care providers and programs with:

43 (a) Information on training related to child care issues.

44 (b) Technical assistance that relates to initiating or providing child
45 care services.

1 (c) Parent referrals.
2 (d) Becoming registered as a child care home provider.
3 3. Coordinate with the community to:
4 (a) Develop statistics of the demand for and supply of child care.
5 (b) Maintain ongoing relationships with all local groups interested in
6 child care.
7 B. The child care resource and referral system shall:
8 1. Identify all available child care providers and programs through
9 coordination with public and private agencies.
10 2. Collect in a uniform method provider information for the referral
11 database that includes:
12 (a) The type of program.
13 (b) The hours of service.
14 (c) The ages of children served.
15 (d) Fees for service.
16 (e) The licensure, certification and registration status of providers.
17 (f) Other significant provider and program information.
18 3. Establish and maintain a referral process that responds to parental
19 need for information. The child care resource and referral system shall make
20 referrals to child care providers and programs that:
21 (a) Promote parental choice and meet the needs of families.
22 (b) Are included in the resource and referral database.
23 4. Collect in a uniform method family information for the referral
24 database that includes the:
25 (a) Number of calls and contacts.
26 (b) Ages of children in need of care.
27 (c) Days and times of care requested.
28 (d) Type of care requested.
29 (e) Special needs and requests made by the family.
30 (f) Reason that the care is needed.
31 5. Provide outreach services that include:
32 (a) Efforts to reach parents and providers in local communities.
33 (b) Involvement in the local communities.
34 (c) Publication of services through all available media sources,
35 agencies and other appropriate channels.
36 (d) Public awareness information to parents and providers about the
37 child care home provider registry and the benefits of using the registry or
38 becoming registered.
39 6. Provide technical assistance to existing and prospective child care
40 providers and programs that include:
41 (a) Information on all aspects of initiating new child care services
42 including child care regulations, zoning, program and budget development and
43 assistance in finding information from other sources.

1 (b) Educational information and resources that assist existing child
2 care providers and programs to better serve the children and parents in their
3 community.

4 (c) Local coordination of existing child care and child related
5 services.

6 7. Establish and maintain a child care home provider registry that
7 includes:

8 (a) Child care home providers that are registered pursuant to section
9 41-1967.01.

10 (b) A complaint tracking system that contains written complaints
11 concerning providers and written provider responses. The complaints and
12 responses are available to the public.

13 (c) A system for notifying a provider that is excluded or removed from
14 the registry that the provider may appeal directly to the entity making the
15 determination resulting in the exclusion or removal.

16 (d) Information provided by registered providers relating to the
17 services provided and child care environment.

18 C. The following child care providers are eligible to be considered
19 for inclusion in the child care resource and referral database, unless barred
20 by other provisions of law:

21 1. Child care providers licensed or certified by a government agency
22 ~~which~~ THAT is authorized by law to license, certify or approve child care
23 providers.

24 2. Child care home providers that are registered pursuant to section
25 41-1967.01. These providers shall submit and amend when necessary sworn,
26 written statements to the department or its designees, on forms approved by
27 the department, attesting that the provider is not subject to exclusion or
28 removal from the child care resource and referral database under any of the
29 grounds specified in subsection E of this section.

30 D. Child care providers identified in subsection C, paragraph 1 of
31 this section may be excluded or removed from the child care resource and
32 referral database whenever the provider's license or certification is
33 revoked, terminated or suspended, or when a child care facility is closed for
34 cause.

35 E. Child care home providers identified in subsection C, paragraph 2
36 of this section may be excluded or removed from the child care home provider
37 registry and the child care resource and referral database if:

38 1. The provider fails to obtain a fingerprint clearance card or the
39 provider's fingerprint clearance card is revoked or suspended.

40 2. The provider has been denied a license to operate a facility for
41 the care of children or had a license or certificate to operate a facility
42 revoked or has been removed for cause from participation in the child and
43 adult food program in this state or in any other state or jurisdiction.

44 3. The provider, the provider's employees or any person eighteen years
45 of age or older who resides in the provider's child care facility has been

1 convicted of or is awaiting trial on any of the criminal offenses listed in
2 section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar
3 criminal offenses in any other state or jurisdiction.

4 4. The provider, the provider's employees or any person who resides in
5 the provider's child care facility has been the subject of an investigation
6 where a report of child abuse or neglect has been substantiated by a child
7 protective services agency or a law enforcement agency in this state or in
8 any other state or jurisdiction.

9 5. The provider fails to maintain current training and certification
10 in first aid and infant and child cardiopulmonary resuscitation.

11 6. The provider fails to enclose a pool pursuant to section 36-1681,
12 subsections A, B and C.

13 7. The provider fails to separately store firearms and ammunition
14 under lock and key or combination lock.

15 F. This section and section 41-1967.01 do not create an affirmative
16 obligation on the part of any state agency or any child care resource and
17 referral agency to review, monitor or investigate child care providers and
18 programs.

19 G. Neither this state nor its officers or employees, acting within the
20 scope of their employment, are liable for any damage or injury caused by
21 their conduct pursuant to this section or section 41-1967.01, except for
22 gross negligence or conduct intended to cause injury.

23 H. Neither a child care resource and referral agency nor its officers
24 and employees, acting within the scope of their employment, are liable for
25 any damage or injury caused by their conduct pursuant to this section or
26 section 41-1967.01, except for gross negligence or conduct intended to cause
27 injury.

28 I. The department shall adopt rules that are consistent with the terms
29 of this section.

30 Sec. 19. Section 41-1967.01, Arizona Revised Statutes, is amended to
31 read:

32 41-1967.01. Child care home provider; registration;
33 fingerprints; definition

34 A. A child care home provider who receives compensation to care for
35 four or fewer children and who has not been certified by the department of
36 economic security pursuant to section 46-807 or licensed or certified by the
37 department of health services pursuant to section 36-883 or 36-897.01 shall
38 register with the department of economic security if the child care home
39 provider wishes to be listed with the child care resource and referral
40 system.

41 B. Each applicant for registration shall submit a full set of
42 fingerprints to the department of public safety for the purpose of obtaining
43 a state and federal criminal records check pursuant to section 41-1750 and
44 Public Law 92-544. The department of public safety may exchange this
45 fingerprint data with the federal bureau of investigation.

1 C. Child care providers shall have a valid fingerprint clearance card
2 issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07
3 or shall apply for a fingerprint clearance card by the date of registration
4 with the department.

5 D. By the date of registration, child care providers shall certify on
6 forms that are provided by the department and notarized whether:

7 1. They are awaiting trial on or have been convicted of or admitted
8 committing any of the ~~following~~ criminal offenses LISTED IN SECTION
9 41-1758.07, SUBSECTION B OR C in this state or similar offenses in another
10 state or jurisdiction~~+-~~.

- 11 ~~(a) Sexual abuse of a minor.~~
- 12 ~~(b) Incest.~~
- 13 ~~(c) First or second degree murder.~~
- 14 ~~(d) Kidnapping.~~
- 15 ~~(e) Arson.~~
- 16 ~~(f) Sexual assault.~~
- 17 ~~(g) Sexual exploitation of a minor.~~
- 18 ~~(h) Felony offenses involving contributing to the delinquency of a~~
19 ~~minor.~~
- 20 ~~(i) Commercial sexual exploitation of a minor.~~
- 21 ~~(j) Felony offenses involving sale, distribution or transportation of,~~
22 ~~offer to sell, transport or distribute or conspiracy to sell, transport or~~
23 ~~distribute marijuana, dangerous drugs or narcotic drugs.~~
- 24 ~~(k) Felony offenses involving the possession or use of marijuana,~~
25 ~~dangerous drugs or narcotic drugs.~~
- 26 ~~(l) Burglary.~~
- 27 ~~(m) Aggravated or armed robbery.~~
- 28 ~~(n) Robbery.~~
- 29 ~~(o) A dangerous crime against children as defined in section 13-705.~~
- 30 ~~(p) Child abuse.~~
- 31 ~~(q) Sexual conduct with a minor.~~
- 32 ~~(r) Molestation of a child.~~
- 33 ~~(s) Manslaughter.~~
- 34 ~~(t) Assault or aggravated assault.~~
- 35 ~~(u) Exploitation of minors involving drug offenses.~~
- 36 ~~(v) A violation of section 28-1381, 28-1382 or 28-1383.~~
- 37 ~~(w) Offenses involving domestic violence.~~

38 2. They are parents or guardians of a child adjudicated to be a
39 dependent child as defined in section 8-201.

40 3. They have been denied a license to operate a child care facility
41 for cause in this state or another state or had a license or certificate to
42 operate a child care facility revoked.

43 E. The notarized forms are confidential.

F. Each applicant for registration shall not have been the subject of an investigation where a report of child abuse or neglect has been substantiated.

G. Each applicant shall maintain current training and certification in first aid and infant and child cardiopulmonary resuscitation.

H. The applicant shall enclose any pool on the applicant's premises pursuant to section 36-1681, subsections A, B and C.

I. The applicant shall separately store firearms and ammunition under lock and key or combination lock.

J. The department shall adopt rules to carry out this section.

K. The director shall charge a fee for processing the fingerprint information required pursuant to this section.

L. Any obligation or liability under this section is governed by the provisions of section 41-1967, subsections F, G and H.

M. For the purposes of this section, "child care provider" means a registered child care home provider pursuant to subsection A of this section.

Sec. 20. Section 41-1968, Arizona Revised Statutes, is amended to read:

41-1968. DES employees; fingerprint requirement; definition

Each employee of the department who has contact with children or vulnerable adults shall have a valid fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07 or provide to the department documentation of the person's application for a fingerprint clearance card. The employee shall certify on forms that are provided by the department and that are notarized whether the employee is awaiting trial on or has ever been convicted of any of the criminal offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses in another state or jurisdiction. For the purposes of this section, "vulnerable adult" has the same meaning prescribed in section 13-3623.

Sec. 21. Section 41-1969, Arizona Revised Statutes, is amended to read:

41-1969. Information technology personnel; criminal history records

A. Each employee of the department of economic security who is employed in an information technology position shall have a valid fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07 or provide to the department documentation of the person's application for a fingerprint clearance card. Before accepting an offer of employment, an applicant for an information technology position in the department of economic security shall have a valid fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07 or provide to the department documentation of the person's application for a fingerprint clearance card.

B. The department of economic security shall not disclose information obtained pursuant to subsection A of this section except to members of the department's staff solely for employment purposes.

Sec. 22. Section 46-141, Arizona Revised Statutes, is amended to read:

46-141. Criminal record information checks: fingerprinting employees and applicants

A. Each license granted by the department of economic security and each contract entered into between the department of economic security and any contract provider for the provision of services to juveniles shall provide that, as a condition of employment, personnel who are employed by the licensee or contractor, whether paid or not, and who are required or allowed to provide services directly to juveniles shall have a valid fingerprint clearance card issued pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07 or shall apply for a fingerprint clearance card within seven working days of employment.

B. The licensee or contractor shall assume the costs of fingerprint checks and may charge these costs to its fingerprinted personnel. The department may allow all or part of the costs of fingerprint checks to be included as an allowable cost in a contract.

C. A service contract or license with any contract provider or licensee that involves the employment of persons who have contact with juveniles shall provide that the contract or license may be canceled or terminated immediately if a person certifies pursuant to subsections F and G of this section that the person is awaiting trial on or has been convicted of any of the offenses listed in subsections F and G of this section in this state or similar offenses in another state or jurisdiction or if the person does not possess or is denied issuance of a valid fingerprint clearance card.

D. A contract provider or licensee may avoid cancellation or termination of the contract or license under subsection C of this section if a person who does not possess or has been denied issuance of a valid fingerprint clearance card or who certifies pursuant to subsections F and G of this section that the person has been convicted of or is awaiting trial on any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsection B is immediately prohibited from employment or service with the contract provider or licensee in any capacity requiring or allowing contact with juveniles.

E. A contract provider or licensee may avoid cancellation or termination of the contract or license under subsection C of this section if a person who does not possess or has been denied issuance of a valid fingerprint clearance card or who certifies pursuant to subsections F and G of this section that the person has been convicted of or is awaiting trial on any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsection C is immediately prohibited from employment or service with the contract provider or licensee in any capacity requiring contact with juveniles unless the person is granted a good cause exception pursuant to section 41-619.55.

1 F. Personnel who are employed by any contract provider or licensee,
2 whether paid or not, and who are required or allowed to provide services
3 directly to juveniles shall certify on forms provided by the department of
4 economic security and notarized whether they are awaiting trial on or have
5 ever been convicted of any of the criminal offenses listed in section
6 ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses
7 in another state or jurisdiction.

8 G. Personnel who are employed by any contract provider or licensee,
9 whether paid or not, and who are required or allowed to provide services
10 directly to juveniles shall certify on forms provided by the department of
11 economic security and notarized whether they have ever committed any act of
12 sexual abuse of a child, including sexual exploitation and commercial sexual
13 exploitation, or any act of child abuse.

14 H. Federally recognized Indian tribes or military bases may submit and
15 the department of economic security shall accept certifications that state
16 that personnel who are employed or who will be employed during the contract
17 term have not been convicted of, have not admitted committing or are not
18 awaiting trial on any offense under subsection F of this section.

19 I. A person who applies to the department of economic security for a
20 license or certificate or for paid or unpaid employment, including contract
21 services, and who will provide direct services to juveniles or vulnerable
22 adults shall submit a full set of fingerprints to the department for the
23 purpose of obtaining a state and federal criminal records check pursuant to
24 section 41-1750 and Public Law 92-544. The department of public safety may
25 exchange this fingerprint data with the federal bureau of investigation.
26 This subsection does not apply to those persons who are subject to section
27 8-105, 8-509, 8-802 or 41-1968.

28 J. The special services unit of the department of economic security
29 may use the department of public safety automated system to update all
30 criminal history record information in order to ensure, to the maximum extent
31 reasonably possible, complete disposition information. The department of
32 economic security may deny employment or issuance or renewal of the contract
33 or license applied for in these cases if it determines that the criminal
34 history record information indicates that such employee, applicant or
35 contractor is not qualified or suitable.

36 K. Volunteers who provide services to juveniles under the direct
37 visual supervision of the contractor's or licensee's employees are exempt
38 from the fingerprinting requirements of this section.

39 L. The department of economic security shall notify the department of
40 public safety if the department of economic security receives credible
41 evidence that a person who possesses a valid fingerprint clearance card
42 pursuant to subsection A of this section either:

43 1. Is arrested for or charged with an offense listed in section
44 ~~41-1758.03~~ 41-1758.07, subsection B OR C.

1 2. Falsified information on the form required by subsection F of this
2 section.
3 Sec. 23. Emergency
4 This act is an emergency measure that is necessary to preserve the
5 public peace, health or safety and is operative immediately as provided by
6 law.